

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Federal-State Joint Board on Universal)
Service)
)
Dobson Cellular Systems, Inc. and American)
Cellular Corporation Petition for Agreement)
with Redefinition of the Service Areas of)
Certain Rural Incumbent Local Exchange)
Carriers in the State of Oklahoma Pursuant to)
47 C.F.R. § 54.207(c)

CC Docket No. 96-45

**DOBSON CELLULAR SYSTEMS, INC. AND AMERICAN CELLULAR
CORPORATION PETITION FOR AGREEMENT WITH REDEFINITION OF THE
SERVICE AREAS OF CERTAIN RURAL INCUMBENT LOCAL EXCHANGE
CARRIERS IN THE STATE OF OKLAHOMA**

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SUMMARY

Dobson Cellular Systems, Inc., for itself and on behalf of its subsidiary licensees, Oklahoma Independent RSA 5 Partnership and Oklahoma Independent RSA 7 Partnership (“Dobson”), and its affiliate, American Cellular Corporation (“ACC”) (collectively, the “Petitioners”), respectfully request the Commission’s concurrence with the Oklahoma Corporation Commission’s (“Oklahoma Commission”) decision to redefine the service area requirement in certain study areas in connection with its grant of eligible telecommunications carrier (“ETC”) status to Dobson and ACC in the state of Oklahoma.¹

Dobson and ACC filed a Verified Application for Designation as an Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement with the Oklahoma Commission on March 2, 2005.² Among the areas in which Dobson and ACC sought ETC designation were certain specified wire centers in the study areas of eleven (11) rural telephone companies (collectively, the “RTCs”) subject to redefinition of the service area requirement from the study area to the wire center level. During the state proceedings, Dobson entered into a stipulation with a number of the RLECs pursuant to which certain wire centers

¹ *Dobson Cellular Systems, Inc. and American Cellular Corporation Application for Designation as a Competitive Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement Pursuant to Section 214(e) of the Telecommunications Act of 1996*, Case No. PUD 200500122, *Final Order*, Order No. 534334 at 4 (January 18, 2007) (“*Designation Order*”) (noting that redefinition is conditional on the FCC’s concurrence and requiring Dobson and ACC to file a petition for redefinition with the FCC) (attached hereto as **Exhibit A**).

² *Dobson Cellular Systems, Inc. and American Cellular Corporation Application for Designation as a Competitive Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement Pursuant to Section 214(e) of the Telecommunications Act of 1996*, Case No. PUD 200500122, *Verified Application of Dobson Cellular Systems, Inc. and American Cellular Corporation for Designation as an Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement* (March 2, 2005) (“*Oklahoma ETC Application*”) (attached hereto as **Exhibit B**). The requested designated service areas were amended during the course of the proceeding.

were deleted from some of the study areas in which redefinition was requested. None of the RTCs objected to the redefinition requested by Dobson and ACC, and the Oklahoma Commission Staff (“Staff”) supported the redefinition.

On July 5, 2006, the Administrative Law Judge (“ALJ”) issued a report (“*ALJ Report*”) recommending that Dobson and ACC be designated as competitive ETCs throughout the non-rural telephone company wire centers, and rural telephone company study areas which did not require redefinition.³ However, the ALJ initially recommended that competitive ETC status be denied in the service areas of the RTCs requiring redefinition.⁴

Dobson and ACC filed an Appeal and Exceptions to the *ALJ Report* on July 14, 2006, and a hearing was held before the Oklahoma Commission on August 16, 2006.

On January 18, 2007, the Oklahoma Commission issued an Order granting the Petitioners’ Application throughout the non-rural telephone company wire centers and the rural telephone company study areas not requiring redefinition.⁵ Moreover, the Oklahoma Commission rejected the ALJ’s recommendation against redefinition and determined to redefine the RTCs’ service area requirement from the study area to the individual wire center level to facilitate the Petitioners’ ETC designation in the RTCs’ study areas. As a result, the Oklahoma

³ *Dobson Cellular Systems, Inc. and American Cellular Corporation Application for Designation as a Competitive Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement Pursuant to Section 214(e) of the Telecommunications Act of 1996*, Case No. PUD 200500122, *Report of the Administrative Law Judge* at 23 (July 5, 2006) (“*ALJ Report*”) (attached hereto as **Exhibit C**).

⁴ *ALJ Report* at 23-24.

⁵ *Designation Order* at 7 (specifically adopting the *ALJ Report*, as modified by the *Designation Order*).

Commission conditionally designated the Petitioners as ETCs for the specified wire centers, subject to this Commission's approval of the redefinition.⁶

As demonstrated below, the Oklahoma Commission's proposed service area redefinition for the RTCs' study areas is consistent with federal law and the Commission's regulations and decisions. Moreover, redefinition is necessary to further the universal service goals of the Telecommunications Act of 1996 (the "Act"). Accordingly, Dobson and ACC respectfully request that the Commission approve the Oklahoma Commission's service area redefinition pursuant to 47 C.F.R. § 54.207(c).

⁶ *Designation Order* at 3-5.

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Dobson Cellular Systems, Inc., for itself and on behalf of its subsidiary licensees, Oklahoma Independent RSA 5 Partnership and Oklahoma Independent RSA 7 Partnership (“Dobson”), and its affiliate, American Cellular Corporation (“ACC”), respectfully request the Commission’s concurrence, pursuant to 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(c), with the Oklahoma Corporation Commission’s (“Oklahoma Commission”) redefinition of the service area requirement in certain study areas in connection with its grant of eligible telecommunications carrier (“ETC”) status to Dobson and ACC (collectively, the “Petitioners”). As demonstrated in this Petition, the Oklahoma Commission’s decision to redefine the study areas of the rural telephone companies (“RTCs”) to the individual wire center level is consistent with federal law and the Commission’s regulations and decisions. Accordingly, the public interest will be served by the Commission’s prompt concurrence.

I. BACKGROUND

A carrier designated as a competitive ETC pursuant to Section 214(e) of the Telecommunications Act of 1996 (the “Act”) is required to provide and advertise certain specified services throughout the “service area” for which it has been designated.⁷ The term “service area” means a geographic area established by a State commission (or the Commission under Section 214(e)(6) of the Act)) for the purpose of determining universal service obligations and support mechanisms.⁸ In an area served by a rural telephone company, a competitive ETC’s service area is defined as the rural telephone company’s “study area,” unless and until the Commission and the State commission both agree to redefine the service area requirement to something other than the study area.⁹

The Commission has previously recognized that requiring a competitive carrier, especially a wireless provider, to conform its designated ETC service area to the study area of a rural telephone company may give the incumbent local exchange carrier (“ILEC”) an unfair competitive advantage.¹⁰ The Commission has promulgated 47 C.F.R. § 54.207 to avoid such anti-competitive results. Pursuant to Section 54.207, a State commission may grant ETC designations for a service area that differs from the rural ILEC’s study area.¹¹ Such designations,

⁷ 47 U.S.C. § 214(e)(1)

⁸ 47 U.S.C. § 214(e)(5).

⁹ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8871-72 ¶ 172 n. 434 (1997) (“*Universal Service First Report and Order*”), *subsequent history omitted*.

¹⁰ *Universal Service First Report and Order*, 12 FCC Rcd at 8879-80 ¶ 185.

¹¹ *Id.*

however, require this Commission to concur with the State commission's proposed redefinition.¹²

In granting such designations, the State commission and this Commission are required to consider the Joint Board's recommendations and explain their rationale for adopting the alternative service area.¹³ In recommending that the study area be retained as the presumptive service area for a rural ILEC, the Joint Board has identified the following three factors which must be considered when weighing a request to redefine the service area requirement to something other than the study area: (1) minimizing cream skimming; (2) recognizing that the 1996 Act places rural telephone companies on a different competitive footing from other LECs; and (3) recognizing the administrative burden of requiring rural telephone companies to calculate costs at something other than a study area level.¹⁴ As set forth below, the Oklahoma Commission fully considered each of the three Joint Board factors and properly concluded that granting the proposed redefinition is consistent with each of these factors.

Dobson and ACC filed a Verified Application for Designation as an Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement with the

¹² *Id.*

¹³ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b); *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd 1563, 1567, ¶ 9 (rel. Jan. 22, 2004) (“*Virginia Cellular*”); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, 20 FCC Rcd. 6371, 6403, ¶¶ 73-75 (2005) (“*March 2005 Order*”).

¹⁴ *Virginia Cellular*, 19 FCC Rcd at 1582 ¶ 41 (citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Recommended Decision*, 12 FCC Rcd 87, 179-80, ¶¶ 172-74 (1996) (“*Joint Board Recommendations*”)).

Oklahoma Commission on March 2, 2005.¹⁵ Among the areas in which Dobson and ACC sought ETC designation were certain full wire centers in the study areas of certain RTCs where Petitioners did not serve the entire study area, including Alltel Oklahoma, Central Oklahoma Telephone Co., Cherokee Telephone Co., Cross Telephone Co., Oklahoma Alltel, Inc., Oklahoma Communications Systems, Inc., Panhandle Telephone Cooperative, Inc., Pioneer Tel. Coop., Inc., Pottawatomie Telephone Co., Salina-Spavinaw Tel. Co., Inc., and Totah Telephone Co., Inc.¹⁶

Not one of these RTCs objected to redefinition, and one of the RTCs, Totah Telephone Co. Inc., formally stipulated to the redefinition of its study area.¹⁷ When Oklahoma Commission Staff (“Staff”) questioned an attorney for several of the RTCs regarding redefinition, the RTC attorney responded that there “was just no basis” to object to the redefinition.¹⁸ Staff agreed, finding that the designation of Dobson and ACC would be in the public interest and such ETC designation should be granted in all of the requested exchanges and study areas.¹⁹

¹⁵ *Dobson Cellular Systems, Inc. and American Cellular Corporation Application for Designation as a Competitive Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement Pursuant to Section 214(e) of the Telecommunications Act of 1996*, Case No. PUD 200500122, *Verified Application of Dobson Cellular Systems, Inc. and American Cellular Corporation for Designation as an Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement* (March 2, 2005) (“*Oklahoma ETC Application*”) (attached hereto as **Exhibit B**).

¹⁶ *ALJ Report*, Exhibit B; *Designation Order* at 4-5. Dobson also sought and received redefinition of the study area of Hinton Telephone Company, but does not seek FCC concurrence with that decision.

¹⁷ *ALJ Report* at 17.

¹⁸ *Id.*

¹⁹ *Id.* at 18.

Dobson filed a population density analysis as part of its original application to the Oklahoma Commission.²⁰ During the course of the state proceeding, however, certain changes were made to the requested service area, and a mathematical error was corrected. First, as noted above, Dobson entered into a stipulation with three of the affected rural ILECs (Choteau Telephone Company, Totah Communications, Inc., and Pine Telephone Company, Inc.) to resolve issues raised in the ETC proceeding.²¹ Under the terms of the stipulation, Dobson withdrew its request for designation in all wire centers in the Choteau study area, and withdrew its request as to certain specific wire centers in the Totah study area. Further, to eliminate a disagreement with Cross Telephone Company regarding the precise relationship between the boundaries of its study area and the boundaries of Dobson's licensed service area, Dobson eliminated two Cross wire centers from its requested ETC service area.²²

Finally, in the course of the proceeding a mathematical error was discovered in the original population density analysis for Hinton Telephone Company. Specifically (as can be seen in the population density analysis included in the Petition), the original analysis counted the population and area of wire center CLNYOKXA twice, resulting in slightly inaccurate density calculations for both the served and unserved portions of the study area.

As a result of these amendments, Dobson proffered a revised population density analysis during the rebuttal testimony stage of the state proceeding ("Exhibit TC-5").²³ In this revised

²⁰ The original population density analysis was Exhibit D to Dobson's state ETC petition. The state ETC petition, in turn, is Exhibit B to this Petition.

²¹ A copy of the Stipulation is appended as Exhibit D hereto.

²² Dobson agreed to eliminate the Cross wire centers in the Rebuttal Testimony of Thomas A. Coates, at pp. 14, 16-18. The relevant portion of this testimony is appended as Exhibit E hereto.

²³ A copy of the revised population density analysis is appended hereto as Exhibit F.

analysis, Dobson also corrected the error in the population density analysis in the Hinton exchange.

The ALJ issued a report on July 5, 2006 (“*ALJ Report*”), recommending that Dobson and ACC be designated as competitive ETCs throughout the non-rural telephone company wire centers, and rural telephone company study areas not requiring redefinition.²⁴ The *ALJ Report* also recommended denial of ETC status in the service areas of the RTCs requiring redefinition.²⁵ On July 14, 2006, Dobson and ACC filed an Appeal and Exceptions to the *ALJ Report* and a hearing was held before the Oklahoma Commission on August 16, 2006.

On January 18, 2007, the Oklahoma Commission issued an Order designating the Petitioners’ as competitive ETCs throughout the non-rural telephone company wire centers and the rural telephone company study areas not requiring redefinition.²⁶ The Oklahoma Commission expressly rejected the ALJ’s recommendation regarding redefinition. Based on its review of the record evidence, the Oklahoma Commission stated:

The Commission declines to adopt the ALJ’s eighth numbered finding [regarding redefinition of the study areas to the wirecenter/exchange level]. The Commission finds no evidence that creamskimming would result from granting the redefinition request of Dobson and ACC. The Commission finds no evidence that Dobson and ACC would gain an unfair competitive advantage if they are granted ETC designations with redefined study areas. The Commission finds that it is in the public interest to redefine the study area requirement for the rural telephone companies identified in Exhibit B to the ALJ Report.²⁷

Consequently, the Oklahoma Commission redefined the service area requirement from the study area to the individual wire center level to facilitate the Petitioners’ ETC designation in

²⁴ *Id.* at 23.

²⁵ *Id.* at 23-24.

²⁶ *Designation Order.*

²⁷ *Id.* at 4.

the RTCs' study areas, and conditionally designated the Petitioners for the specified wire centers, subject to this Commission's approval of the redefinition.²⁸

In adopting the modified *ALJ Report*, the Oklahoma Commission's redefinition decision was supported by the analysis and recommendations of its Staff:

In Staff's view, designation of Dobson and ACC as an ETC would serve the public interest. In the Application and the testimonies of its witnesses, Dobson and ACC supported the public interest requirement of the designation by arguing that such designation will offer rural consumers affordable services comparable to those provided in urban areas, providing them a choice between USF supported service providers, and offering them the benefits of alternative telecommunication technologies. Dobson and ACC also pointed out that subscribers to wireless service are able to access emergency services while away from their homes, something traditional wireline service cannot provide . . . Staff agrees that designation of Dobson and ACC as an ETC is in the public interest.²⁹

In regard to redefinition of the proposed study areas, Staff testified that Totah Telephone agreed to the redefinition in a stipulation and that the RTCs did not argue against redefinition in their testimony. When questioned by Staff, the attorney for some of the RTCs responded that there "was just no basis" to object to redefinition.³⁰ Accordingly, Staff testified that "[i]n the absence of objections from the RLECs, and based on its analysis that no "cream skimming" will result, Staff does not object to redefinition of the proposed study areas to the exchange level as required" by Dobson and ACC.³¹

²⁸ *Id.* at 4-5.

²⁹ *ALJ Report* at 17.

³⁰ *Id.*

³¹ *Id.*

Set forth below is a listing of the wire centers in which Dobson and ACC were designated as competitive ETCs by the Oklahoma Commission subject to the Commission's concurrence with the proposed service area redefinition.³²

Rural Telephone Company	Wire Center Name	Designated CETC
ALLTEL Oklahoma	ASLDOKXA	DCS
	BRFLOKXA	DCS
	BTLROKXA	DCS
	CANTOKXA	DCS
	CORNOKXA	DCS
	DLCYOKXA	DCS
	FOSSOKXA	DCS
	GOTBOKXA	DCS
	GRTYOKXA	DCS
	HMMNOKXA	DCS
	KIOWOKXA	DCS
	MTVWOKXA	DCS
	RSVTOKXA	DCS
	SNYDOKXA	DCS
	SVNNOKXA	DCS
Central Oklahoma Telephone Co.	BOLYOKXA	DCS
	CSTLOKXA	DCS
Cherokee Telephone Co.	APLROKXA	DCS
	ATWDOKXA	DCS
	STRTOKXA	DCS
Cross Telephone Co.	KFTNOKXA	DCS
	PORMOKXA	DCS
	WBFLOKXA	DCS
	WRNROKXA	DCS
Oklahoma ALLTEL, Inc.	BARNOKXA	ACC
	STWLOKXA	ACC
Oklahoma Communication Systems, Inc.	CYRLOKXA	DCS
	GRMTOKXA	DCS
	VRDNOKXA	DCS
Panhandle Telephone Cooperative, Inc.	LVRNOKXA	DCS
Pioneer Tel. Coop., Inc.	ALINOKXA	DCS
	AMESOKXA	DCS
	APCHOKXA	DCS
	ARNTOKXA	DCS
	BFLOOKXA	DCS

³² ALJ Report, Exhibit B; Designation Order at 4-5.

Rural Telephone Company	Wire Center Name	Designated CETC
	CHESOKXA	DCS
	CLSPOKXA	DCS
	CRMNOKXA	DCS
	CRTROKXA	DCS
	CSTROKXA	DCS
	CVTNOKXA	DCS
	DACMOKXA	DCS
	DGLSOKXA	DCS
	DRMDOKXA	DCS
	FARGOKXA	DCS
	FRDMOKXA	DCS
	FTSPOKXA	DCS
	GAGEOKXA	DCS
	GRBROKXA	DCS
	HLNAOKXA	DCS
	HNTROKXA	DCS
	HPTNOKXA	DCS
	HRMNOKXA	DCS
	LAHMOKXA	DCS
	MAY OKXA	DCS
	MENOOKXA	DCS
	MRLDOKXA	DCS
	MUTLOKXA	DCS
	QNLNOKXA	DCS
	RNWDOKXA	DCS
	SHRNOKXA	DCS
	SHTCOKXA	DCS
	SLMNOKXA	DCS
	SNTNOKXA	DCS
	WYNKOKXB	DCS
Pottawatomie Telephone Co.	BWLGOKXA	DCS
	SSKWOKXA	DCS
Salina-Spavinaw Tel. Co., Inc.	FLNTOKXA	ACC
	KNSSOKXA	ACC
Totah Telephone Co., Inc.	LNPBOKXA	ACC

This Commission has held that a State commission’s “first-hand knowledge of the rural areas in question uniquely qualifies it to examine the redefinition proposal and determine whether it should be approved.”³³ The Oklahoma Commission has this specific first-hand knowledge of the circumstances of Oklahoma rural ILECs and other carriers, and should thus be

³³ *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd. 6422, 6423, ¶ 2 (rel. Apr. 12, 2004) (“*Highland Cellular*”).

given significant weight as the Commission addresses the service area redefinition request made herein.

II. DISCUSSION

A. Redefinition of the Service Area Requirement is Consistent with Federal Universal Service Policy

Congress has expressly declared its intent in passing the 1996 amendments to the Act:

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.³⁴

Consistent with these goals, the Act specifically contemplates the designation of multiple ETCs, including in areas served by rural ILECs, as being consistent with the public interest. 47 U.S.C. § 214(e)(2). The Commission has also long recognized that requiring a competitive carrier, especially a wireless provider, to conform its designated service area to the study area of a rural ILEC may act to bar the new telecommunications provider from entering the market, and thus give the ILEC an unfair competitive advantage.³⁵

This is particularly true in this case as large portions of the RTCs' study areas lie outside of the Petitioners' FCC-licensed CMRS boundaries in Oklahoma. The proposed redefinition is consistent with federal universal service policy as it will promote local competition and enable Dobson and ACC to bring new services and technologies to customers in rural and high-cost

³⁴ Pub. L. No. 104-104, 110 Stat. 56 (1996) (emphasis added).

³⁵ *Universal Service First Report and Order*, 12 FCC Rcd at 8879-80 ¶ 185.

portions of Oklahoma who currently have little or no meaningful choice of universal service providers.³⁶

Federal universal service policy also favors redefinition in instances where a rural ILEC's study area is large or non-contiguous. The Commission has expressly urged State commissions to explore redefinition for purposes of ETC designation where a competitive ETC or wireless carrier might not be able to provide facilities-based service throughout a rural ILEC's entire study area.³⁷ Accordingly, the Commission has cautioned that requiring a new entrant to serve a large or non-contiguous service area as a prerequisite to ETC designation would impose a "serious barrier to entry, particularly for wireless carriers" and would be "particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service."³⁸

The proposed redefinition in this proceeding will promote competition in the RTCs' study areas by offering customers within the Petitioners' respective FCC-licensed service areas a choice in universal service providers. This effort at facilitating competition is consistent with the goals of the Act and this Commission.³⁹ Moreover, the Oklahoma Commission has employed its unique position and expertise in analyzing the telecommunications market in Oklahoma to

³⁶ *Virginia Cellular*, ¶¶ 40-45; *Highland Cellular*, ¶¶ 37-42; see also *Washington Utilities & Transportation Commission, et al., Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal Service Support*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 15 FCC Rcd 9921, ¶ 8 (Com. Car. Bur. 1999).

³⁷ *Universal Service First Report and Order*, 12 FCC Rcd at 8882-83 ¶ 190.

³⁸ *Id.*

³⁹ See *Virginia Cellular*, 19 FCC Rcd 1581 ¶ 38.

determine that redefinition of the service area is in the public interest.⁴⁰ Accordingly, the Commission should concur with the Oklahoma Commission's redefinition determination in this proceeding without delay.

B. Redefinition In This Case Satisfies The Three Joint Board Factors

As noted above, the Commission has adopted the three Joint Board factors which should be considered when evaluating a request for service area redefinition.⁴¹ The Commission recently reiterated its adherence to these three factors in the *March 2005 Order*.⁴² In adopting the *ALJ Report*, as modified by the *Designation Order*, the Oklahoma Commission has properly considered each of these factors and correctly determined that redefinition of the service area requirement to the wire center level in this instance is consistent with these factors.⁴³

1. Redefinition Will Not Result in Cream Skimming

The first factor to consider is whether an ETC applicant is selectively seeking designation in only the low-cost, high-support portion of a rural ILEC's study area, a process known as "cream skimming." The Commission has noted that if a competitor were required to serve a rural ILEC's entire study area, the risk of "cream skimming" would be eliminated because a competitive ETC would be prevented from selectively targeting service only to the lowest cost exchanges of the rural ILEC's study area.⁴⁴ As the Joint Board has explained:

We note that some commenters argue that Congress presumptively retained study areas as the service area for rural telephone companies in order to minimize "cream skimming" by potential competitors. Potential "cream skimming" is minimized because competitors, as a condition of eligibility, must provide

⁴⁰ *Designation Order* at 5.

⁴¹ See, e.g., *Highland Cellular*, ¶¶ 38-41 (applying Joint Board's recommended factors).

⁴² *March 2005 Order*, ¶¶ 73-75.

⁴³ *Designation Order*.

⁴⁴ *Universal Service Order*, 12 FCC Rcd at 8881-82.

services throughout the rural telephone company's study area. Competitors would thus not be eligible for universal service support if they sought to serve only the lowest cost portions of a rural telephone company's study area.⁴⁵

In this case, the Oklahoma Commission's determination to redefine the service area requirement expressly took into account any cream skimming concerns. In seeking ETC designation and redefinition, Dobson and ACC had conducted and presented at the hearing a population density analysis, as endorsed by this Commission, to assess any risk of any unintended effects of cream skimming.⁴⁶ The Petitioners' amended population density analysis demonstrates that no inadvertent effects of cream skimming would result from the requested redefinition as "the population density analysis for Dobson's and ACC's requested service areas shows that the population densities of most of the areas in which designation is sought are lower than or equal to the population densities for those areas where they are not seeking designation. This means no effects of creamskimming are present."⁴⁷ Where the density is "slightly higher," the difference "is not significant enough to raise creamskimming concerns."⁴⁸ In modifying the recommendations of the *ALJ Report*, the Oklahoma Commission reviewed the record and expressly found "no evidence that creamskimming would result from granting the redefinition request of Dobson and ACC."⁴⁹ The Oklahoma Commission relied upon Petitioners' evidence at the hearing that "creamskimming is not present because Dobson and ACC seek to serve all possible areas within their respective FCC-licensed service areas, and because ILECs have had

⁴⁵ *Joint Board Recommendations*, 12 FCC Rcd at 179-80¶ 172.

⁴⁶ *See* Exhibit F.

⁴⁷ *ALJ Report* at 10; *See also* Exhibit F.

⁴⁸ *Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1579 & n.110 (2003)

⁴⁹ *Designation Order* at 4.

the opportunity to disaggregate support,” thus, “creamskimming is nearly impossible for a competitive ETC applicant because the economic incentive to creamskim exists only in the rare case where high-cost and low-cost portions of the ILEC’s and wireless carrier’s service areas match.”⁵⁰

2. Redefinition Does Not Affect the Unique Regulatory Status of the Rural ILECs

The second factor to consider is the impact on the rural ILEC whose service area is to be redefined. The Oklahoma Commission’s determination to redefine the service area requirement in this proceeding will not affect the unique regulatory status of any of the RTCs. As the Commission concluded in *Virginia Cellular*:

[O]ur decision to redefine the service areas of the affected rural telephone companies includes special consideration for the affected rural carriers. Nothing in the record convinces us that the proposed redefinition will harm the incumbent rural carriers. The high-cost universal service mechanisms support all lines served by ETCs in rural areas. Under the Commission’s rules, receipt of high-cost support by Virginia Cellular will not affect the total amount of high-cost support that the incumbent rural telephone company receives. Therefore, to the extent that Virginia Cellular or any future competitive ETC captures incumbent rural telephone company lines, provides new lines to currently unserved customers, or provides second lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve. Similarly, redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.⁵¹

Nothing in the service area redefinition process affects the RTCs’ statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c) of the Act. Further, redefining the RTCs’ service areas as requested will not compromise or impair any of

⁵⁰ *ALJ Report* at 10.

⁵¹ *Virginia Cellular*, 19 FCC Rcd at 1583 ¶ 43 (internal footnotes omitted).

the companies' unique regulatory treatment under Section 251(f) of the Act. Even after the service area requirement is redefined for purposes of Dobson's and ACC's designation, the RTCs' will still retain the statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c).

Additionally, the redefinition process does not affect the way in which the RTCs' calculate embedded costs or the amount of per-line support the companies receive. "Under the Commission's rules, the receipt of high-cost support by [a competitive ETC] will not affect the total amount of high-cost support that the incumbent rural telephone company receives."⁵² Rather, the redefinition process only modifies the service area requirement for purposes of designating a competitive ETC. Thus, the RTCs will retain their unique regulatory status as rural ILECs under the Act consistent with the Joint Board's recommendations.

Consistent with this analysis, the Oklahoma Commission correctly determined that the proposed redefinition "will not affect the ILECs' rural telephone company exemption under 47 U.S.C. § 251(f)."⁵³ Accordingly, the Commission's concurrence with the Oklahoma Commission's proposed redefinition will have no effect on the unique regulatory status enjoyed by the RTCs.

3. Redefinition Does Not Create Any Administrative Burdens

The third and final factor to consider is whether any administrative burdens may result from the redefinition of the service area requirement. A rural ILEC's universal service support

⁵² *Virginia Cellular*, 19 FCC Rcd at 1583 ¶ 43; *see also Highland Cellular*, 19 FCC Rcd at 6440 ¶ 40.

⁵³ *Designation Order* at 5.

payments are currently based on the company's embedded costs determined at the study area level.⁵⁴ As the Commission concluded in *Virginia Cellular*:

[R]edefining the rural telephone company service areas as proposed will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire ILEC study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.⁵⁵

For the same reasons, redefinition of the service area requirement in this case will not impose any administrative burdens on the RTCs. In adopting the modified *ALJ Report*, the Oklahoma Commission agreed with the Petitioners' evidence at hearing "that there is no reason to expect that redefinition will result in any administrative burden on ILECs."⁵⁶ Accordingly, the Commission's concurrence with the Oklahoma Commission's proposed redefinition will not create any additional administrative burdens and should, therefore, be approved without delay.

III. CONCLUSION

For the reasons stated herein, Dobson and ACC respectfully request that the Commission concur in the Oklahoma Commission's proposed redefinition of the RTCs' service areas from the study area level to the individual wire center level.

⁵⁴ *Universal Service First Report and Order*, 12 FCC Rcd at 8881-82 ¶ 189.

⁵⁵ *Virginia Cellular*, 19 FCC Rcd 1583 ¶ 44.

⁵⁶ *ALJ Report* at 11. See also *Designation Order* at 7 (adopting the *ALJ Report* as modified).

Respectfully submitted,

**DOBSON CELLULAR SYSTEMS, INC. AND
AMERICAN CELLULAR CORPORATION**

Dated: May 21, 2007

By: _____/s/

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*ATTORNEYS FOR DOBSON CELLULAR
SYSTEMS, INC., AND AMERICAN CELLULAR
CORPORATION*

Exhibit A

**Oklahoma Corporation Commission's January 18, 2007 Order Granting Eligible
Telecommunications Carrier Designation and Redefining the Service Area Requirement**

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF DOBSON CELLULAR)
SYSTEMS, INC. AND AMERICAN)
CELLULAR CORPORATION APPLICATION)
FOR DESIGNATION AS A COMPETITIVE) Cause No. PUD 200500122
ELIGIBLE TELECOMMUNICATIONS)
CARRIER AND REDEFINITION OF THE) ORDER NO. **534334**
STUDY AREA REQUIREMENT PURSUANT)
TO SECTION 214(e) OF THE)
TELECOMMUNICATIONS ACT OF 1996)

FINAL ORDER

BY THE COMMISSION:

The Oklahoma Corporation Commission ("Commission"), being regularly in session and the undersigned Commissioners being present and participating, considers the July 5, 2006 Report of the Administrative Law Judge ("ALJ Report").

On July 14, 2006, Dobson Cellular Systems, Inc. ("Dobson") and American Cellular Corporation ("ACC") filed an Appeal and Exceptions to the ALJ Report. The hearing on this appeal was held on August 16, 2006, before the Commission *en banc*.

The ALJ Report contains fifteen Findings of Fact and Conclusions of Law, hereinafter referred to as "numbered findings".

Finding No. 1: The ALJ's first numbered finding states that the Commission has the discretion to apply the requirements of the FCC's March 17, 2005 ETC Requirement Order when determining whether to designate Dobson and ACC as an ETC in the exchanges requested. The Commission adopts the ALJ's first numbered finding.

Finding No. 2: The ALJ's second numbered finding identifies the criteria that the Commission will use to determine whether ETC designation is in the public interest. The

Commission adopts the ALJ's second numbered finding.

Finding No. 3: The ALJ's third numbered finding determines that no public interest conclusion is necessary to designate Dobson or ACC as an ETC in the study areas of Southwestern Bell Telephone Company, d/b/a AT&T Oklahoma, or Windstream Communications, formerly Valor Telecommunications of Oklahoma, LLC. The ALJ recommended that the Commission designate Dobson and ACC as an ETC within the respective exchanges of AT&T Oklahoma and Windstream Communications that are identified by wire center in Exhibit A of the ALJ's Report.

The Commission finds that Dobson should be designated as an ETC in the South Coldwater exchange of the AT&T Oklahoma study area. ACC should be designated as an ETC in the Afton, Alluwe, Bartlesville, South Coffeyville, South Chetopa, Commerce, Corn, Dewey, Delaware, Fairland, Grove, Miami, Nowata, Picher, Quapaw, Tahlequah, Vinita, and Westville exchanges of the AT&T Oklahoma study area and the Ramona exchange of the Windstream Communications study area.

Finding No. 4: The ALJ's fourth numbered finding concludes that it would serve the public interest to designate Dobson and ACC as an ETC for the study areas of several Rural Incumbent Telephone Companies. The Commission adopts the ALJ's fourth numbered finding with clarification, as follows:

Dobson is designated as an ETC for the entire study area of South Central Telephone Association, Inc. – KS (Burlington and Byron exchanges). ACC is designated as an ETC for the entire Oklahoma study area of Atlas Telephone Company's Big Cabin, Blue Jacket, and Welch exchanges; CenturyTel of NW Arkansas – Russelville's Colcord and West Maysville exchanges; the Watts exchange of CenturyTel of NW Arkansas – Siloam Springs; Craw-Kan Telephone

Cooperative, Inc. – KS’s South Bartlett and South Edna exchanges; Grand Telephone Co., Inc.’s Disney and Jay exchanges; Ozark Telephone Company’s Southwest City exchange; Seneca Telephone Company’s West Seneca and West Tiff City exchanges; and Wyandotte Telephone Company’s Wyandotte exchange.

Finding No. 5: The ALJ’s fifth numbered finding requires that Dobson and ACC file a 5-year build-out plan for any study areas / exchanges for which they receive ETC designation pursuant to their application in this cause. The ALJ also recommended that Dobson and ACC not be required to file a 5-year build-out plan for those exchanges in which it was previously designated as an ETC in Cause No. 200300239 until the Commission requires all non-ILEC ETCs to periodically file a 5-year build-out plan. The Commission adopts the ALJ’s fifth numbered finding.

Finding Nos. 6 and 7: The ALJ’s sixth and seventh numbered findings describe additional public interest conclusions of the ALJ for the some study areas listed in Finding No. 4, above. The ALJ’s seventh numbered finding also contains a recommendation that the Commission require Dobson to provide its customers with local usage plans containing a minimum number of local usage minutes. The Commission adopts the ALJ’s public interest conclusions but declines to require Dobson or ACC to provide customers with local usage plans containing a minimum number of local usage minutes. As designated ETCs, Dobson and ACC will be required to provide unlimited local calling for Lifeline subscribers pursuant to OAC 165:55-23-11(a)(1)(K). The Commission finds that the local calling scope is to be equal to or larger than the incumbent local telephone company in whose exchanges the Lifeline service is to be provided.

Finding No. 8: The ALJ’s eighth numbered finding concludes that it is not in the public

interest to designate Dobson and ACC as an ETC in redefined study areas. The ALJ stated that Dobson and ACC failed to demonstrate the public interest served by designating them as ETCs in only a portion of exchanges contained within a study area. The ALJ also reasoned that granting ETC status in a redefined study area could give Dobson and ACC an unfair competitive advantage over other wireless non-ETCs.

The Commission declines to adopt the ALJ's eighth numbered finding. The Commission finds no evidence that creamskimming would result from granting the redefinition request of Dobson and ACC. The Commission finds no evidence that Dobson and ACC would gain an unfair competitive advantage if they are granted ETC designations with redefined study areas. The Commission finds that it is in the public interest to redefine the study area requirement for the rural telephone companies identified in Exhibit B to the ALJ Report.

Accordingly, Dobson is designated as an ETC in the Ashland, Burns Flat, Butler, Canute, Corn, Dill City, Foss, Gotebo, Gerty, Hammon, Kiowa, Mountain View, Roosevelt, Snyder, and Savanna exchanges of Alltel Oklahoma; the Boley and Castle exchanges of Central Oklahoma Telephone Co.; the Arpelar, Atwood, and Stuart exchanges of Cherokee Telephone Co.; the Keefton, Porum, Webbers Falls, and Warner exchanges of Cross Telephone Co.; the Colony, Eakly, Hinton, and Lookeba exchanges of Hinton Telephone Co.; the Cyril, Gracemont, and Verden exchanges of Oklahoma Communication Systems, Inc.; the Laverne exchange of Panhandle Telephone Cooperative, Inc.; the Aline, Ames, Apache, Arnett, Buffalo, Chester, Cleo Springs, Carmen, Carter, Castle, Covington, Dacoma, Douglas, Drummond, Fargo, Freedom, Fort Supply, Gage, Garber, Helena, Hinton, Hopeton, Harmon, Lahoma, May, Meno, Mooreland, Mutual, Quinlan, Ringwood, Sharon, Shattuck, Selman, Sentinal, and Waynoka exchanges of Pioneer Telephone Cooperative, Inc.; and the Bowlegs and Sasakwa exchanges of

of Pottawatomie Telephone Co. ACC is designated as an ETC in the Flint and Kansas, OK exchanges of Salina-Spavinaw Telephone Co., Inc.; the Lenapah exchange of Totah Communications, Inc.; and the Baron and Stillwell exchanges of Oklahoma Alltel, Inc.

ETC designation for a redefined study area carries all the same obligations as ETC designation for a complete study area. Redefinition will not affect the ILECs' rural telephone company exemption under 47 U.S.C. § 251(f). Redefinition is conditional on the FCC's concurrence. Dobson and ACC shall be required to file a petition for redefinition with the FCC.

Finding No. 9: The ALJ's ninth numbered finding recommends that the Commission designate Dobson and ACC as ETCs on an interim basis for twelve months and require that Dobson and ACC file a five-year build-out plan consistent with the FCC's March 17, 2005 Order in Docket No. 96-45, demonstrate their ability to remain functional in emergency situations, and acknowledge that the FCC may require Dobson and ACC to provide equal access to long distance carriers in the event no other ETC carrier is providing equal access within the study area.

The Commission finds that it retains jurisdiction over ETCs designated by it and therefore has jurisdiction to request special reports and other information to give assurance that the conditions placed by the Commission on such ETCs are complied with. The Commission retains jurisdiction to access fines under its contempt authority and to revoke or modify an ETC designation under its continuing jurisdiction. Therefore, the Commission rejects the ALJ's recommendation to make the ETC designation interim.

Finding No. 10: The ALJ's tenth numbered finding concludes that the Commission should issue a protective order to protect the confidentiality of market sensitive information. The Commission declines to adopt the ALJ's tenth numbered finding. The Commission need not

issue a separate protective order. Rather, the confidentiality of Dobson's and ACC's market sensitive information, including the contents of their five-year build-out plans, will be protected by the March 18, 2005 Protective Order in this Cause (Order No. 502826).

Finding No. 11 and 12: The ALJ's eleventh and twelfth numbered findings relate to the recommended interim designation of Dobson and ACC. Since the Commission has declined to adopt the ALJ's recommendation to issue an interim ETC designation for Dobson and ACC, the eleventh and twelfth numbered findings are inapplicable. The Commission declines to adopt the ALJ's eleventh and twelfth numbered findings.

Finding No. 13: The ALJ's thirteenth numbered finding recommends that Dobson and ACC be required to advertise the availability of Lifeline and Link-Up services using media of general distribution within their designated territory and to provide brochures to the Oklahoma Department of Human Services and the Federal Housing Authority. The ALJ's thirteenth numbered finding is adopted in part. Dobson and ACC shall be required to advertise the availability of Lifeline and Link-Up services using media of general distribution throughout the areas in which they are designated as an ETC. Dobson and ACC shall not be required to provide brochures to the Oklahoma Department of Human Services and the Federal Housing Authority.

Finding No. 14: The ALJ's fourteenth numbered finding recommends that Dobson and ACC be required accept Carrier of Last Resort (COLR) obligations if the ILEC in the study area relinquishes its federal Universal Service Fund eligibility. The Commission adopts the ALJ's fourteenth numbered finding.

Finding No. 15: The ALJ's fifteenth numbered finding states that Dobson and ACC have certified that they will use all federal high-cost universal service support for the provision, maintenance and upgrade of facilities for which the support is intended. The Commission adopts

the ALJ's fifteenth numbered finding.


ORDER

IT IS ORDERED BY THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA that the foregoing findings of fact and conclusions of law be adopted as fair, just and reasonable.

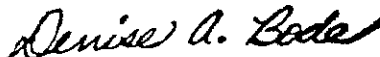
IT IS FURTHER ORDERED that the Report of the Administrative Law Judge is adopted as modified by the preceding provisions in this order.

IT IS FURTHER ORDERED that Dobson Cellular Systems, Inc. and American Cellular Corporation are designated as Eligible Telecommunications Carriers within the study areas identified in this order for the purposes of receiving federal universal service support. In those areas requiring redefinition of the study area requirement, Dobson and ACC are designated as ETCs subject to the FCC's concurrence with redefinition of the study area requirement.

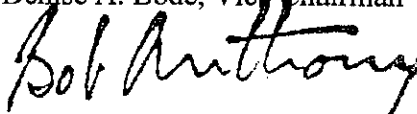
OKLAHOMA CORPORATION COMMISSION



Jeff Cloud, Chairman

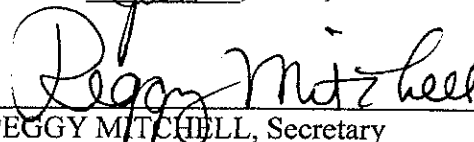


Denise A. Bode, Vice Chairman



Bob Anthony, Commissioner

DONE AND PERFORMED THIS 18 DAY OF Jan - , 2007, BY ORDER OF THE COMMISSION.



PEGGY MITCHELL, Secretary

Exhibit B

**Dobson Cellular Systems, Inc. and American Cellular Corporation March 2, 2005 Verified
Application for Designation as an Eligible Telecommunications Carrier and Redefinition of
the Service Area Requirement**

BEFORE THE CORPORATION COMMISSION
OF THE STATE OF OKLAHOMA

FILED
MAR 02 2005

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

In the matter of DOBSON CELLULAR)
SYSTEMS, INC. and AMERICAN)
CELLULAR CORPORATION application)
for designation as a competitive eligible)
telecommunications carrier and redefinition)
of the service area requirement pursuant to)
Section 214(e) of the Telecommunications)
Act of 1996)

Case No. **PUD** 200 500122

**VERIFIED APPLICATION OF DOBSON CELLULAR SYSTEMS, INC.
AND AMERICAN CELLULAR CORPORATION FOR DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND
REDEFINITION OF THE SERVICE AREA REQUIREMENT**

I. INTRODUCTION

1. Dobson Cellular Systems, Inc. ("DCS"), for itself and on behalf of its subsidiary licensees, Oklahoma Independent RSA 5 Partnership and Oklahoma Independent RSA 7 Partnership, and its affiliate American Cellular Corporation ("ACC") (collectively, "Dobson" or the "Company"), submits this Application for designation as an eligible telecommunications carrier ("ETC") and redefinition of the service area requirement pursuant to 47 U.S.C. § 214(e) of the Communications Act of 1996 (the "Act"), 47 U.S.C. § 151, *et. seq.*, Part 54 of the Federal Communications Commission's ("FCC") rules and regulations governing universal service ("FCC Rules"), and Okla. Admin. Code, Title 165 §§ 55-23-1, *et seq.*

2. Dobson seeks immediate designation as a competitive ETC for purposes of qualifying to receive federal universal service support in the non-rural telephone company wire centers and rural telephone company study areas set forth on the attached **Exhibit A**. Dobson also seeks conditional ETC designation in the individual rural telephone company wire centers set forth on the attached **Exhibit B** pending approval of Dobson's request for redefinition of the service area requirement by this Commission and the FCC.

3. Upon designation as a federal ETC, Dobson will undertake to offer and advertise the services and functionalities supported by the federal universal service support mechanisms, set forth 47 C.F.R. § 54.101(a)(1)-(a)(9) (the "Supported Services"), throughout the areas in which Dobson is designated as a competitive ETC ("ETC Service Areas"). A map depicting Dobson's FCC-licensed service areas in Oklahoma and the incumbent telephone companies' wire center boundaries is attached as **Exhibit C**.

4. As demonstrated below, Dobson meets all of the statutory and regulatory prerequisites for designation as a competitive federal ETC throughout its requested ETC Service Areas. The Commission should, therefore, grant Dobson's Application without delay.

II. BACKGROUND

5. DCS and ACC are Oklahoma-based companies with their principal place of business located at 14201 Wireless Way, Oklahoma City, Oklahoma 73134-2512.

6. DCS and ACC are subsidiaries of Dobson Communications Corporation. Together, the two companies are licensed by the FCC to provide commercial mobile radio service ("CMRS") in portions of Alaska, Arizona, Illinois, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Texas, West Virginia and Wisconsin. The companies serve approximately 1.6 million wireless subscribers nationwide.

7. DCS has been designated as a competitive ETC throughout portions of Oklahoma.¹ DCS has also been designated as a competitive ETC by the regulatory commissions

¹ *Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996*, Cause No. PUD 200300239, *Final Order Adopting the Report of the Administrative Law Judge*, Order No. 495564 (Sept. 28, 2004).

of Michigan and Texas. ACC has been designated as a competitive ETC by the Wisconsin Public Service Commission.

8. DCS is licensed to provide CMRS in the following FCC-licensed service areas in Oklahoma: Enid Metropolitan Service Area ("MSA"), Rural Service Area ("RSA") 2 – Harper, and RSA 6 – Seminole. Oklahoma Independent RSA 5 Partnership is licensed to provide CMRS in RSA 5 – Roger Mills. Oklahoma Independent RSA 7 Partnership is licensed to provide CMRS in RSA 7 – Beckham. ACC is licensed to provide CMRS in Adair, Cherokee, Craig, Delaware, Nowata, Ottawa and Washington counties.

9. Dobson provides service in Oklahoma under the brand names Dobson Cellular Systems® and CellularOne®. The telecommunications services provided by Dobson in Oklahoma include mobile telephony, data, facsimile, 911, voicemail and other features and services. Dobson offers digital voice and digital feature services to its customers through its existing Time Division Multiple Access ("TDMA") digital network. In addition, Dobson recently upgraded to a Global System for Mobile Communications ("GSM") and General Packet Radio Service ("GPRS") digital network, which enables the Company to offer enhanced data services to its customers.

10. Dobson offers its customers high-quality wireless telecommunications services and is committed to providing exceptional customer service as demonstrated by its adoption of the Cellular Telecommunications Industry Association ("CTIA") Consumer Code for Wireless Service, which sets forth certain principles, disclosures and practices for the provision of wireless services.²

² See www.ctia.org/wireless_consumers/consumer_code/index.cfm.

III. JURISDICTION

11. As a CMRS provider, Dobson's provision of wireless telecommunications services is licensed and regulated by the FCC. However, under 47 U.S.C. § 214(e)(2), the Commission has the jurisdiction and authority to designate Dobson as an ETC in its requested ETC Service Areas. Further, the Commission has jurisdiction and authority to grant Dobson's request for redefinition of the service area requirement under 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b)-(c).

IV. FEDERAL CRITERIA FOR ETC DESIGNATION

12. To qualify for ETC designation under 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201, the Commission must find that Dobson meets the following requirements:

- (a) That the Company is a "common carrier" under federal law;
- (b) That the Company offers or will be able to offer the Supported Services using its own facilities, or a combination of its own facilities and resale of another carrier's services;
- (c) That the Company will advertise the availability and charges for the Supported Services using media of general distribution; and
- (d) That the Company will provide the Supported Services throughout its designated ETC Service Areas upon reasonable request.

13. Section 54.101(a)(1)-(a)(9) of the FCC's Rules require that an ETC provide the following services or functionalities:

- (a) voice-grade access to the public switched telephone network;
- (b) local usage;
- (c) dual-tone multi-frequency ("DTMF") signaling or its functional equivalent;
- (d) single-party service or its functional equivalent;
- (e) access to emergency services;
- (f) access to operator services;

- (g) access to interexchange service;
- (h) access to directory assistance;
- (i) toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a)(1)-(a)(9).

14. The Act and the FCC's Rules define "service area" as a geographic area established by the Commission for purposes of determining universal service obligations and support. In an area served by an incumbent non-rural telephone company, the Commission may designate a competitive ETC for a service area that is smaller than the contours of the incumbent carrier's study area.³

15. In an area served by a rural telephone company, "service area" is defined as the incumbent carrier's entire "study area," unless and until the Commission and FCC cooperatively redefine the service area requirement to something less than the study area. 47 U.S.C. § 214(e)(5), 47 C.F.R. § 207(b).

16. Consistent with the public interest, convenience, and necessity, a competitive ETC may be designated in any area served by a non-rural telephone company so long as the applicant meets the requirements of 47 U.S.C. § 214(e)(1). Before designating a competitive ETC in an area served by a rural telephone company, the Commission must also find that the designation satisfies the "public interest" requirement set forth in 47 U.S.C. § 214(e)(2).

V. DOBSON SATISFIES EACH OF THE PREREQUISITES FOR DESIGNATION AS A COMPETITIVE ELIGIBLE TELECOMMUNICATIONS CARRIER

17. A telecommunications carrier utilizing any technology, including wireless technology, is eligible to receive federal universal service support if the carrier meets the

³ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338, ¶ 39 n.114 (rel. Jan. 22, 2004) ("Virginia Cellular Order"); *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶¶ 184-185 (rel. May 8, 1997) ("Universal Service Order").

requirements established under 47 U.S.C. § 214(e)(1). As demonstrated below, Dobson satisfies each of these requirements. Dobson operates as a common carrier, provides each of the nine Supported Services established by the FCC, and will offer and advertise the availability of, and charges for, such services throughout its designated ETC Service Areas. Finally, Dobson's designation as a competitive ETC is consistent with the public interest, convenience, and necessity and, in areas served by a rural telephone company, will serve the public interest.

A. Dobson is a Common Carrier

18. The first requirement for ETC designation is that the applicant is a common carrier. 47 U.S.C. § 214(e)(1). A common carrier is defined by the Act as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio" 47 U.S.C. § 153(10). The FCC has determined that wireless telecommunications is a common carrier service. *See* 47 C.F.R. § 20.9(a). Therefore, Dobson meets the definition of common carrier for purposes of ETC designation.

B. Dobson Provides Each of the Nine Supported Services

19. The second requirement for ETC designation is that the applicant be capable of and committed to providing each of the nine Supported Services upon designation. 47 U.S.C. § 214(e)(1)(A).⁴ Dobson is capable of, and currently does provide, the Supported Services over its existing network infrastructure in Oklahoma as follows:

(a) Voice Grade Access: The FCC has determined that voice grade access to the public switched telephone network means the ability to make and receive calls with a minimum bandwidth of 300 to 3500 Hertz. 47 C.F.R. § 54.101(a)(1). Through its interconnection agreements with various ILECs, including ALLTEL, Oklahoma Metropolitan

⁴ Although not required under federal law, Dobson also provides access to Telecommunications Relay Services ("TRS") by dialing "711."

Telecom, Oklahoma SWB/Southwestern Bell Telephone Company, Oklahoma TDS Telecommunications Corporation d/b/a Mid-America Telephone, Inc., Oklahoma Communications, Inc. and Wyandotte Telephone Company, Dobson's customers are currently able to make and receive calls on the public switched telephone network within the FCC's specified frequency range.

(b) Local Usage: "Local usage" means an amount of minutes of use of exchange service, as prescribed by the FCC, provided free of charge to end users. 47 C.F.R. § 54.101(a)(2). An ETC must include an amount of local usage as part of a universal service offering. 47 C.F.R. 54.101(a)(2). Unlimited local usage is not required of any ETC.⁵ The FCC has determined that a wireless carrier's inclusion of local usage in a variety of service offerings satisfies the obligation to provide local usage.⁶ Dobson will include local usage in all of its universal service offerings within Dobson defined local service areas as part of its monthly service package. In addition, Dobson will comply with any specific local usage requirements adopted by the FCC and required of federal ETCs in the future.

(c) Dual Tone Multi-Frequency Signaling or Its Functional Equivalent: "Dual Tone Multi-Frequency" ("DTMF") is a method of signaling that facilitates the transportation of call set-up and call detail information. 47 C.F.R. § 54.101(a)(3). The FCC has recognized that "wireless carriers use out-of-band signaling mechanisms [It] is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling."⁷ Dobson currently uses out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent of DTMF signaling, in accordance with the FCC's requirements.

⁵ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Order and Order on Reconsideration*, FCC 03-170, ¶ 14 (rel. July 14, 2003) ("July 2003 Order").

⁶ *Virginia Cellular Order*, ¶ 20.

⁷ *Universal Service Order*, ¶ 71.

(d) Single-Party Service or its Functional Equivalent: The FCC has determined that a CMRS provider meets the requirement of offering single party service when it offers a dedicated message path for the length of a user's particular transmission. 47 C.F.R. § 54.101(a)(4). Dobson meets the requirement of single-party service by providing a dedicated message path for the length of a user's wireless transmission in all of its service offerings.

(e) Access to Emergency Service: "Access to emergency service" means the ability to reach a public service answering point ("PSAP") by dialing "911." The FCC also requires that a carrier provide access to enhanced 911 or "E911," which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), when the PSAP is capable of receiving such information and the service is requested from the carrier. 47 C.F.R. § 54.101(a)(5). Dobson currently provides all of its customers with the ability to access emergency services by dialing "911." Dobson is currently in compliance with all federal E911 obligations and will work with PSAPs within its ETC Service Areas to make E911 service available according to the FCC's requirements.

(f) Access to Operator Services: "Access to operator services" means any automatic or live assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call. 47 C.F.R. § 54.101(a)(6). Dobson meets this requirement by providing all of its customers with access to operator services provided either by Dobson or third parties.

(g) Access to Interexchange Service: "Access to interexchange service" means the ability to make and receive toll or interexchange calls. 47 C.F.R. § 54.101(a)(7). Equal access to interexchange service, *i.e.*, the ability of a customer to access a presubscribed long distance carrier by dialing 1+number, is not required.⁸ Dobson currently meets this

⁸ July 2003 Order, ¶¶ 14-15; Universal Service Order, ¶ 78.

requirement by providing all of its customers with the ability to make and receive interexchange calls.

(h) Access to Directory Assistance: "Access to directory assistance" means the ability to provide access to a service that makes directory listings available. 47 C.F.R. § 54.101(a)(8). Dobson currently meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212."

(i) Toll Limitation Services: An ETC must offer "toll limitation" services to qualifying low-income consumers at no charge. FCC Rule 54.400(d) defines "toll limitation" as either "toll blocking" or "toll control" if a carrier is incapable of providing both, but as both "toll blocking" and "toll control" if a carrier can provide both. Toll blocking allows consumers to elect not to allow the completion of outgoing toll calls. Toll control allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle. 47 C.F.R. § 54.500(b)-(c). Dobson is not, at this time, capable of providing toll control. However, Dobson is capable of and does provide toll blocking to Lifeline customers in Oklahoma and other states in which the Company has been designated an ETC consistent with the FCC's rules. Dobson will utilize its existing toll-blocking technology to provide the service to its Lifeline customers in the ETC Service Areas, at no charge, as part of its service offerings.

C. Dobson Will Offer and Advertise the Availability of, and Changes for, the Supported Services Throughout Its ETC Service Areas

20. The third requirement for ETC designation is that an applicant advertise the availability of, and charges for, the Supported Services using media of general distribution. 47 U.S.C. § 214(e)(1)(B).

21. Dobson currently offers and advertises its wireless telecommunications services to customers in Oklahoma using media of general distribution, including radio, television,

billboard, print advertising, and the Internet at www.celloneusa.com and www.dobsoncellular.com. Dobson also maintains various retail store locations and sales agents throughout its FCC-licensed service areas, which provide an additional source of advertising.

22. As a federal ETC, Dobson will advertise the availability of its service offerings and the corresponding rates for those services throughout its ETC Service Areas through media of general distribution. Dobson's advertisements of its service offerings will be part of and integrated into its current advertising for its existing array of services and offerings in a manner that fully complies with federal requirements, and Dobson commits to such advertisements in the future.

D. Dobson Will Provide the Supported Services Throughout Its Designated ETC Service Areas

23. Consistent with the obligations of a competitive federal ETC, Dobson commits to provide the Supported Services to any customer within its designated ETC Service Areas upon reasonable request.

24. As set forth in **Exhibits A through C** attached hereto, each of the wire centers and study areas for which Dobson is requesting designation as an ETC is located wholly within the geographic limits of Dobson's FCC-licensed service areas in Oklahoma.

VI. DESIGNATING DOBSON AS A COMPETITIVE FEDERAL ETC WILL SERVE THE PUBLIC INTEREST

25. In an area served by a non-rural telephone company, the Commission must find that the designation of a competitive ETC is consistent with the public interest, convenience and necessity. This standard is met where the applicant satisfies the prerequisites of 47 U.S.C. § 214(e)(1) and can offer consumers a competitive alternative to the incumbent carrier. As discussed above, Dobson fully satisfies each of the requirements of 47 U.S.C. § 214(e)(1). In addition, Dobson's unique service offerings will provide Oklahoma consumers with a true

competitive alternative to the incumbent carriers by increasing customer choice and access to innovative services and new technologies.

26. In an area served by a rural telephone company, the Commission must separately find that the designation of a competitive ETC will also satisfy the "public interest" standard set forth in 47 U.S.C. § 214(e)(2).

27. In *Virginia Cellular*, the FCC identified five factors to consider in determining whether the designation of a competitive ETC in a rural telephone company's service area is in the public interest.⁹ These factors include: (1) the benefits of increased competitive choice, (2) the unique advantage and disadvantages of the competitor's service offering, (3) the impact of multiple designation on the universal service fund, (4) any commitments made regarding quality of telephone service provided by competing providers, and (5) the competitive ETC's ability to provide the Support Services throughout the designated service area within a reasonable time frame.¹⁰ As demonstrated below, designating Dobson as a competitive ETC in Oklahoma is consistent with each of the public interest considerations articulated by the FCC in *Virginia Cellular*.

A. Benefits of Increased Competitive Choice

28. The FCC has repeatedly acknowledged the inherent consumer benefits of increased competition in the telecommunications market. In sum, increased competition drives down prices, improves service quality, and promotes the development of advanced communications services:

We note that an important goal of the Act is to open local telecommunications markets to competition. Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer

⁹ *Virginia Cellular Order*, ¶ 4.

¹⁰ *Virginia Cellular Order*, ¶ 28.

choice, innovative services, and new technologies. We agree with Western Wireless that competition will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers in Wyoming by creating incentives to ensure that quality services are available at "just, reasonable, and affordable rates."

* * *

We reject the general argument that rural areas are not capable of sustaining competition for universal service support. We do not believe that it is self-evident that rural telephone companies cannot survive competition from wireless providers. Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers. . . .¹¹

29. Oklahoma's rural consumers should be able to choose their telecommunications provider based on their own needs and not be restricted to the services offered by an incumbent rural telephone company. Designating Dobson as a competitive ETC will allow the consumers in its requested ETC Service Areas to choose their provider based on the price, services, service quality, customer service and service availability offered by openly competing companies. In addition, with increased competitive choice Oklahoma's rural consumers can expect lower rates and improved service as competition provides an incentive for the incumbent rural telephone companies to invest in new technologies and additional infrastructure.

B. Unique Advantages of Dobson's Service Offerings

30. The FCC has recognized the specific benefits and advantages of wireless service, including the provision of service to customers who do not have access to wire line service, the

¹¹ *In the Matter of the Federal-State Joint Board on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 00-2896, ¶¶ 17 & 22 (rel. Dec. 26, 2000) (emphasis added).

mobility of service and the availability of a larger local calling area.¹² The benefits and advantages of wireless service are particularly important in rural and insular areas, where the FCC has found that the mobility and access to emergency services offered by wireless carriers can mitigate the unique risks of geographic isolation.¹³

31. The safety benefits associated with mobile wireless service are undisputed. The National Telecommunications Cooperative Association ("NTCA") – the “preeminent telecommunications industry organization dedicated exclusively to representing and serving the interests of the nation’s small, rural incumbent local exchange carriers” – recently acknowledged the essential safety benefits of wireless service in its 2004 Rural Youth Telecommunications Survey:

An astonishing 86% of survey respondents said they have their own wireless phone, leaving only 14% without. This penetration rate among rural teens, which is significantly higher than estimations for the youth market on a national level, most likely is attributed to the safety and convenience issues associated with life in small towns. While statistics show that the crime rates in small towns typically are lower than those in urban areas, safety still is a major concern due to the spread-out nature of rural communities, the long distances traveled to go to school or sports activities, and the steady decline of payphones in small communities. When a teen becomes stranded with a flat tire on a rural road at night, a personal mobile communication device is more than a convenience. It is a safety tool. The fear of scenarios such as this provides much of the push behind wireless penetration in rural youth markets. For this reason, a mobile wireless device increasingly is seen as more of a necessity than a luxury in rural America.

* * *

One might think that teens provide the impetus for subscribing to wireless telephone service. However, further investigation reveals that many don't even have to ask for the phone, but instead are offered the device by their parents, as 60% of survey takers indicated that their parent or guardian pays for the service. Safety issues and the desire to “keep in touch” were the prime motivating factors

¹² *Virginia Cellular Order*, ¶ 29.

¹³ *Id.*

behind the parental purchases of wireless service.¹⁴

32. Likewise, NTCA acknowledged the critical importance of rural/urban telecommunications parity to long-term economic development as follows:

Rural America is threatened by a "brain drain" — its young people typically go away to college in larger metropolitan areas, and in many cases, leave behind for good their rural homes to live in urban areas after graduation. This loss of an educated labor force could have a potentially dramatic impact on the future viability of rural America. The ability to offer the same state-of-the-art telecommunications services as are available in non-rural areas could play a significant role in increasing the attractiveness and livability of rural communities.¹⁵

33. Designating Dobson as a competitive ETC in its requested ETC Service Areas will provide tangible benefits to consumers, including mobility, increased access to emergency services, and access to innovative services. Dobson is well positioned to offer consumers in rural and high-costs areas of Oklahoma a true competitive alternative to the incumbents LECs, and the Company is fully committed to providing industry-leading wireless service to its Oklahoma customers.

34. Dobson has undertaken an aggressive program to improve and upgrade its network facilities to provide cutting edge technology to its subscribers. The Company operates TDMA technology in 100% of its managed network and recently deployed GSM/GPRS technology throughout all of its markets. The Company now offers the most advanced available array of wireless services, utilizing both TDMA and GSM/GPRS and EDGE wireless technologies. Dobson continues to lead the way for the telecommunications industry, now focused on developing 3G services that will provide wireless data services at high speeds.

¹⁴ NTCA 2004 Rural Youth Telecommunications Survey, p. 2 & 5 (emphasis added). Available at http://www.ntca.org/content_documents/2004RuralYouthTelecommunicationsSurvey.pdf.

¹⁵ *Id.*, p. 1

35. In addition, Dobson's service offerings will benefit rural customers in Oklahoma who may not have access to wireline telephones and will include a larger local calling area than those of the incumbent LECs. Other benefits and advantages of Dobson's service offerings include state-of-the-art network facilities; reduced long-distance rates; competitive pricing; 24-hour customer service; enhanced features, such as voice-mail, caller-ID, call-waiting, and call-forwarding; and high-speed data functions including wireless email and internet access.

36. Designating Dobson as a competitive ETC will provide Oklahoma consumers in rural and high-cost areas with access to all of the benefits and advantages discussed above and will provide an enhanced ability for consumers to choose their telecommunications provider based on their own needs. Furthermore, all rural consumers will benefit from Dobson's use of universal service support to improve and expand its existing network and, thereby, expand the availability and quality of its services.

C. Impact of Dobson's Designation on the Universal Service Fund

37. The FCC has acknowledged that USF support provided to competitive ETCs accounts for only a small percentage of the increase in the size of the fund, while disbursements to incumbent carriers continue to substantially increase the size of the fund.¹⁶ Moreover, the FCC has concluded that comparing the impact of any one competitive ETC on the overall fund is, at best, inconclusive.¹⁷

38. In any event, granting Dobson's Application in this case would not result in an appreciable increase in the size of the fund. If the Commission grants Dobson's present Application, the Company currently estimates that it would be eligible to receive approximately \$353,091 per month in additional high-cost universal service support. This estimate represents

¹⁶ *Virginia Cellular Order*, ¶ 31 n. 98.

¹⁷ *Id.*

only 0.108% of the total high-cost support available to all ETCs for the first quarter of 2005.¹⁸ Therefore, designating Dobson as a competitive ETC throughout its requested ETC service areas would have only a negligible impact on the federal USF. Indeed, Dobson would be eligible to receive far less than support amounts deemed inconsequential by the FCC.¹⁹

D. Dobson's Commitment to Service Quality

39. In *Virginia Cellular*, the FCC determined that a carrier's adoption of the CTIA Code of Conduct for Wireless Service ("CTIA Code") evidences a commitment to quality service that advances the public interest.²⁰ Dobson has adopted the CTIA Code and is committed to compliance with CTIA Code in areas where it is seeking designation as a competitive ETC. Moreover, Dobson commits to reporting to the Commission the number of consumer complaints per 1,000 handsets on an annual basis. The FCC considers such a commitment to be a strong indicator of a company's commitment to service quality.²¹

40. In addition, Dobson has made a substantial commitment to providing and maintaining essential telecommunications services in times of emergency. To ensure the availability of service in Oklahoma, the Company has developed and implemented a recovery plan for each of its network mobile switching offices and attendant facilities. The Company has

¹⁸ See Federal Universal Service Support Mechanisms Fund Size Projections for the First Quarter of 2005, Appendix HC 1 (Universal Service Administrative Company, Nov. 2, 2004) (determining total monthly amount of high-cost universal service support available to ETCs to be \$325,634,944). Available at www.universalservice.org/overview/filings/2005/Q1/HC01%20-%20High%20Cost%20Support%20Projected%20by%20State%20by%20Study%20Area%20-%201Q2005.xls.

¹⁹ *Virginia Cellular Order*, ¶ 31 n. 96 (0.105% increase inconsequential); *In the Matter of Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, *Order*, DA 04-3357, ¶ 25, n. 82 (rel. Oct. 22, 2004) (0.419% increase inconsequential); *In the Matter of NPCR, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee, and Virginia*, CC Docket no. 96-45, *Order*, DA 04-2667, ¶21, n. 69 (rel. Aug. 25, 2004) (1.88% increase inconsequential).

²⁰ *Virginia Cellular Order*, ¶ 30.

²¹ *Id.*

also allocated and deployed backup equipment and spares including such things as additional microwave facilities, antennas, battery backups and diesel generators.

41. The Company's emergency recovery planning has already proved to be invaluable. For example, during the extensive blackout throughout the northeast U.S. in August 2003, Dobson's affected networks handled a substantial increase in call volume with little reduction in service despite the loss of commercial power to 300 cell sites.²²

E. Dobson's Commitment to the Extension of Service

42. The final factor to be considered is the applicant's capability and commitment to meet service requests within a reasonable period of time. In *Virginia Cellular*, the FCC accepted the applicant's specific commitment to follow a graduated process to evaluate service requests from an area outside its existing coverage area.²³ Virginia Cellular committed to taking the following steps to respond to all reasonable requests for service:

- (1) modifying or replacing the customers equipment to provide service;
- (2) deploying a roof-mounted antenna or other equipment to provide service;
- (3) making adjustments to the nearest cell tower to provide service;
- (4) making adjustments to network or customer facilities to provide service;
- (5) offering resold services from another carrier's facilities to provide service; and
- (6) employing or constructing an additional cell site, cell extender, or repeater.²⁴

43. Pursuant to Okla. Admin. Code, Title 165 § 55-23-13(b), Dobson will follow the same procedures approved by the FCC in *Virginia Cellular* to provide service to all requesting customers within the Company's designated ETC Service Areas upon reasonable request.

²² See Press Release, *Dobson Communications' Wireless Network Passes the Test; Northeast Power Outage Forces 300 Cellular Sites to Switch to Back-Up Power* (Aug. 15, 2003). Available at www.dobson.net.

²³ *Virginia Cellular Order*, ¶ 15.

²⁴ *Id.*

**VII. THE COMMISSION SHOULD REDEFINE THE SERVICE AREA
REQUIREMENT TO PERMIT DOBSON'S COMPETITIVE ENTRY
IN CERTAIN RURAL TELEPHONE COMPANY SERVICE AREAS**

44. Dobson's request for ETC designation in thirteen rural telephone company service areas is subject to the Commission's action to redefine the service area requirement set forth in 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b). Specifically, Dobson requests that the Commission redefine the service area requirement from the study area to the individual wire center level for purposes of facilitating its designation in the areas served by the following rural telephone companies within its licensed territory: Alltel Oklahoma ("Alltel"); Central Oklahoma Telephone Co. ("Central Oklahoma"); Cherokee Telephone Co. ("Cherokee"); Chouteau Telephone Co. ("Chouteau"); Cross Telephone Co. ("Cross"); Hinton Telephone Co. ("Hinton"); Oklahoma Alltel, Inc. ("Oklahoma Alltel"); Oklahoma Communications Systems, Inc. ("Oklahoma Communications"); Panhandle Telephone Cooperative, Inc. ("Panhandle"); Pioneer Telephone Coop., Inc. ("Pioneer"); Pottawatomie Telephone Co. ("Pottawatomie"); Salina-Spavinaw Tel. Co., Inc. ("Salina-Spavinaw"); and Totah Telephone Co., Inc. ("Totah").

45. Because of the limitations of its FCC license, Dobson is able to serve certain wire centers within each of the above rural telephone company study areas, but is not able to serve the entire study area of each of these companies. Absent redefinition of the service area requirement, Dobson would be prohibited from being designated as a competitive ETC in any of the wire centers within these rural telephone companies' study areas where it can and does provide service today. The wire centers in which Dobson seeks ETC designation subject to redefinition of the service area requirement are set forth in **Exhibit B**, attached hereto.

46. As discussed above, the Act and the FCC's Rules provide that the service area of a rural telephone company shall be the "study area" of the rural telephone company, unless and until the FCC and State commission agree to redefine the service area. 47 U.S.C. § 214(e)(5);

47 C.F.R. § 54.207(b). The FCC has encouraged redefinition as a mechanism to allow competitive entry into portions of a rural telephone company study area, particularly where the study area is large or non-contiguous.²⁵

47. In order to redefine the service area requirement, both the Commission and FCC are required to consider the three factors set forth in recommendations made by the Federal-State Joint Board on Universal Service ("Joint Board"). 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b). The three Joint Board considerations include: (1) the risk that an ETC applicant will seek designation only in low-cost, high-support areas — a practice referred to as "cream skimming;" (2) the effect, if any, redefinition may have on the rural telephone company's unique regulatory status; and (3) the additional administrative burdens, if any, that may result from redefinition.

A. **Dobson's Request For Redefinition Does Not Present a Risk of Either Intentional Cream Skimming or the Unintentional Effects of Cream Skimming**

1. Dobson Is Not Engaging In Intentional Cream Skimming

48. Dobson is seeking conditional ETC designation in each wire center located wholly within its FCC-licensed boundaries where the Company's designation will not result in any effects of cream skimming. In areas where Dobson is requesting redefinition, the Company is seeking redefinition of the service area from the study area to the individual wire center level.²⁶

49. The FCC has expressly concluded that a wireless carrier seeking ETC designation in the wire centers within its FCC-licensed boundaries is not engaging in intentional cream

²⁵ *Universal Service Order*, ¶ 189.

²⁶ Dobson is not seeking redefinition to the partial wire center level. The FCC addressed and declined to grant partial wire center redefinition in *In the Matter of Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 04-37 ¶ 33 (rel. Apr. 12, 2004) ("*Highland Cellular*"). Because all of the wire centers for which Dobson is seeking redefinition are located entirely within its FCC-licensed service area boundaries, the concerns addressed in *Highland Cellular* are not present here.

skimming.²⁷ In other words, cream skimming concerns are eliminated because Dobson has not specifically picked the areas in which it will serve, but instead seeks to serve all possible areas within its FCC-licensed area where no effects of cream skimming will occur. Since Dobson is seeking designation for all wire centers located entirely within the scope of its licensed boundaries where there will be no effects of cream skimming, the Commission should conclude there is no evidence of any intentional cream skimming.

2. Dobson's Designation Will Not Result In Any Effects Of Cream Skimming

50. The FCC has also noted that in certain situations, an ETC applicant's request for redefinition could – through no fault of the applicant – have the unintended effect of cream skimming.²⁸

51. However, the risk of cream skimming has been virtually eliminated by the FCC's implementation of the disaggregation mechanism set forth in 47 C.F.R. § 54.315. The FCC offered rural telephone companies the option to “disaggregate” – *i.e.*, target – the federal universal service support amounts they receive to the higher-cost portions of their study areas. In so doing, rural telephone companies were given the opportunity to target support to ensure that a competitive ETC would receive less per-line support in low-cost areas and, conversely, to ensure that a competitive ETC would only receive higher per-line support in truly high-cost portions of their study areas. The FCC has concluded that the disaggregation mechanism has “substantially eliminated” any cream skimming concerns.²⁹

²⁷ *Virginia Cellular Order*, ¶ 32.

²⁸ *Virginia Cellular Order*, ¶ 33.

²⁹ *In the Matter of Federal-State Joint Board on Universal Service Petitions for Reconsideration of Western Wireless Corporation's Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Order on Reconsideration*, FCC 01-311 ¶ 12 (rel. Oct. 19, 2001).

52. A rural telephone company's choice not to target support indicates that the company does not perceive the risk of cream skimming to be of concern within its study area.³⁰ In this case, six of the rural telephone companies (*i.e.*, Alltel, Cross, Oklahoma Alltel, Oklahoma Communications, Panhandle, and Pottawatomie) have disaggregated support within their study areas. The remaining companies have elected not to target support within their study areas. The Commission should, therefore, recognize that there are no cream skimming concerns in the areas for which Dobson requests redefinition.

53. The FCC has also endorsed conducting a "population density" analysis as a proxy to assess the risk of unintentional cream skimming. A population density analysis compares the population density of the wire centers where ETC designation is requested to the population density of the wire centers where ETC designation is not requested.³¹

54. In this case, the results of a population density analysis confirm that no effects of cream skimming will occur if Dobson is designated within its requested service area. Using publicly available information regarding the geographic size and population of each wire center, Dobson has calculated the population density per square mile for the areas in which the Company is seeking ETC designation and for the areas in which the Company is not seeking ETC designation. A table summarizing this analysis is attached here as **Exhibit D**.

55. The population density analysis set forth in **Exhibit D** confirms that no inadvertent effects of cream skimming will result from Dobson's redefinition request in this proceeding. Specifically, in eight of the thirteen rural telephone company study areas (*i.e.*,

³⁰ See *In The Matter of the Application of N.E. Colorado Cellular, Inc. to Re-Define the Service Area of Eastern Slope Rural Telephone Association, Inc., Great Plains Communications, Inc., Plains Coop Telephone Association, Inc. and Sunflower Telephone Co., Inc.*, Docket No. 02A-444T, *Decision Denying Exceptions and Motion to Reopen Record*, Decision No. C03-1122, ¶ 38 (Aug. 27, 2003) (decision of rural carriers not to target support "is probative evidence of the carriers' lack of concern with cream skimming.")

³¹ *Virginia Cellular Order*, ¶ 34; *Highland Cellular*, ¶ 28.

Central Oklahoma, Cherokee, Chouteau, Oklahoma Alltel, Oklahoma Communications, Panhandle, Pioneer, and Salina-Spavinow), the population density in the areas in which Dobson is seeking ETC designation is lower than the population density in the areas in which Dobson is not seeking designation. Therefore, no effects of cream skimming will occur as a result of Dobson's designation in any of these areas.

56. Further, the results of the population density analysis demonstrate that no effects of cream skimming will occur in the five remaining study areas (*i.e.*, Alltel, Cross, Hinton, Pottawatomie, and Totah) as a result of Dobson's designation. In the Alltel study area, for example, the population density in the areas for which Dobson is seeking designation (8.98 persons sq./mi) is virtually identical to the population density in the areas in which the Company is not seeking designation (8.93 persons sq./mi). In the Cross, Hinton, Pottawatomie, and Totah study areas, the population density is only slightly higher in areas in which Dobson is seeking ETC designation as compared to the areas in which Dobson is not seeking designation (32.31 persons sq./mi as compared with 26.60 persons sq./mi; 15.93 persons sq./mi as compared with 7.89 persons sq./mi; 23.65 persons sq./mi as compared with 20.18 persons sq./mi; and 14.23 persons sq./mi as compared with 4.93 persons sq./mi).

57. Moreover, three of these companies (Alltel, Cross, and Pottawatomie) have elected to disaggregate support within their study areas. As discussed above, disaggregation results in high-cost areas receiving higher support amounts than low-cost areas within the same study area, thus rendering the results of a population density analysis irrelevant in these areas. Therefore, the results of the population density analysis in the Alltel, Cross, and Pottawatomie study areas are irrelevant because the companies have already targeted support to the high-cost wire centers within their study areas.

58. As a result, conclusions drawn from the results of the population density analysis demonstrate that no inadvertent effects of cream skimming will occur as a result of Dobson's request for redefinition.

59. Even if there were still concerns regarding the potential effects of cream skimming, rural telephone companies have been provided the option to disaggregate federal universal support amounts they receive to the higher-cost portions of their study areas. Targeting of support through the disaggregation process remains an option to rural telephone companies that have not already elected to do so, and the Commission can compel companies to disaggregate support.³² Accordingly, any concerns that may remain regarding the unintended effects of cream skimming can be abated through the disaggregation process.

B. Service Area Redefinition Does Not Affect a Rural Telephone Company's Regulatory Status

60. The Joint Board's second factor that must be considered as part of a redefinition analysis is whether redefinition will have any effect upon the unique status enjoyed by rural telephone companies under the Act. In short, redefinition will have no effect upon the rural telephone companies' regulatory status. Nothing in the service area redefinition process affects a rural carrier's statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c). Redefining the rural telephone company service area requirement as requested herein will not compromise or impair the unique treatment of these companies as rural telephone companies under Section 251(f) of the Act. Even after their service areas are redefined for purposes of ETC designations, the companies will still retain the statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c).

³² See *Virginia Cellular*, ¶ 35 n.112; 47 C.F.R. § 54.315.

61. Additionally, as the FCC recently confirmed, the redefinition process does not affect the way in which the rural telephone companies calculate their embedded costs or the amount of per-line support they receive:

(1) the high-cost universal service mechanisms support all lines served by ETCs in rural areas; (2) receipt of high-cost support by [the applicant] will not affect the total amount of high-cost support that the incumbent rural telephone company receives; (3) to the extent that [the applicant] or any future competitive ETC captures incumbent rural telephone company lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve; and (4) redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.

* * *

Under the Commission's rules, receipt of high-cost support by [a competitive ETC] will not affect the total amount of high-cost support that the incumbent rural telephone company receives.³³

Rather, the redefinition process only modifies the service area requirement for purposes of designating a competitive ETC. Thus, the incumbent carriers will retain their unique regulatory status as rural telephone companies under the Act consistent with the Joint Board's recommendations.

C. Redefinition Does Not Create Any Administrative Burdens

62. The third and final Joint Board factor to consider is whether any administrative burdens will result from the redefinition of the service area requirement. A rural telephone company's universal service support payments are currently based on a rural company's embedded costs determined at the study area level.³⁴ The FCC has recently confirmed that redefinition does not affect this calculation or create any additional administrative burdens:

[R]edefining the rural telephone company service areas as proposed will not

³³ *Virginia Cellular Order*, ¶¶ 41, 43; see also *Highland Cellular*, ¶ 40.

³⁴ *Universal Service Order*, ¶ 189.

require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire ILEC study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.³⁵

Just as in *Virginia Cellular*, redefinition of the service area requirement to permit Dobson's competitive entry in this proceeding will have no effect on the rural telephone companies' calculation of their costs and will not create any additional burdens.

63. The Commission can, therefore, proceed to redefine the service area requirement while appropriately taking into account the three factors noted by the Joint Board. Accordingly, the Commission should act to redefine the service area requirement to the individual wire center level for those rural telephone companies specifically identified on **Exhibit B** in order to facilitate Dobson's competitive entry and to foster competition and promote the expansion of new telecommunications services in rural and high cost areas of Oklahoma.

D. Redefinition is Necessary to Promote Competition and Advance Universal Service

64. Redefinition of the service area requirement is necessary for the promotion of competition and the advancement of universal service. Unless the service area requirement is redefined, Dobson is precluded from being designated as an ETC in *any* of the areas served by the rural telephone companies identified on **Exhibit B**. Redefinition is in the public interest because it will enable Dobson to bring new services and new technologies to customers of those rural telephone companies.

65. The FCC has previously determined that redefinition of the service area requirements to the exchange or wire center level facilitates local competition by enabling new

³⁵ *Virginia Cellular Order*, ¶ 44 (emphasis added).

providers to serve relatively small areas.³⁶ The FCC noted: "We find that our concurrence with rural LEC petitioners' request for designation of their individual exchanges as service areas is warranted in order to promote competition." The FCC concluded that a State's "effort to facilitate local competition justifies [the FCC's] concurrence with the proposed service area designation."

66. Redefinition of the service area requirement to the individual wire center level will foster competition in Oklahoma and, thus, further the goals of the Act and the FCC's directives. Unless the Commission permits redefinition, the customers that Dobson desires to serve as a federal ETC will be denied the benefits of competition that Congress and the FCC have sought to foster. Accordingly, this Commission should order that the service area requirement for the rural telephone companies identified on **Exhibit B** be redefined from the study area to the individual wire center level for the purpose of designating Dobson as a competitive federal ETC in those areas it is licensed to serve.

67. Pursuant to 47 C.F.R. § 54.207, Dobson further requests that the Commission petition the FCC for concurrence with its service area redefinition in this proceeding.

VIII. HIGH-COST CERTIFICATION

68. Under the FCC's Rules, states that desire ETCs within their jurisdiction to receive high-cost universal service support must file an annual certification with the Universal Service Administrative Company ("USAC") and the FCC stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of

³⁶ *In the Matter of Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal Service Support*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 99-1844, ¶ 8 (rel. Sept. 9, 1999).

facilities and services for which the support is intended.³⁷ Accordingly, Dobson requests that the Commission certify Dobson's use of support effective the date of the Company's ETC designation.³⁸

69. In order for Dobson to receive high-cost universal service support commencing the date of the Company's ETC designation, the Commission may supplement its annual certification by separately certifying Dobson's use of such support. The FCC's Rules provide that state commissions may file supplemental certifications for carriers not subject to the State's annual certification, such as those carriers who were not yet designated as ETCs at the time.³⁹ Accordingly, Dobson respectfully requests that the Commission supplement its annual certification by separately certifying Dobson's use of support and transmitting a letter to the FCC and USAC in the form attached here as **Exhibit E**.

70. In support of Dobson's request, the Company hereby certifies that it will utilize all federal high-cost universal service support it receives on or after the date of its designation as a competitive ETC only for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).

IX. CONCLUSION

71. Based upon the foregoing, Dobson respectfully requests that the Commission immediately designate Dobson as a competitive federal ETC in the wire centers and study areas identified on **Exhibit A** hereto for purposes of receiving federal universal service support beginning as of the date of the Commission's Order and to conditionally designate Dobson in the

³⁷ 47 C.F.R. §§ 54.313(a), 54.314(a).

³⁸ The Commission previously certified DCS' use of universal service support for calendar year 2005 in the areas where it has already been designated as a competitive federal ETC.

³⁹ 47 C.F.R. §§ 54.313(c), 54.314(c).

wire centers identified on **Exhibit B** hereto subject to FCC approval to redefine the service area requirement from the study area to the individual wire center level.

Respectfully submitted,

Dated: March 2, 2005

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CERTIFICATE OF MAILING

This is to certify that on the 2nd day of March, 2005, a true and correct copy of the foregoing instrument was mailed, postage prepaid, to the following:

David Dykeman
Oklahoma Corporation Commission
400 Jim Thorpe Building
P. O. Box 52000-2000
Oklahoma City, Oklahoma 73152-2000

Cody Waddell
2212 N.W. 50th
Oklahoma City, Oklahoma 73112-8086

Bill Hume
Elizabeth Ryan
Office of Attorney General
112 State Capitol
Oklahoma City, Oklahoma 73105

Kimberly K. Brown
2212 N. W. 50th, Suite 165
Oklahoma City, OK 73112

John Gray
SBC Oklahoma
800 N. Harvey
Oklahoma City, Oklahoma 73103

Ron Comingdeer
Comingdeer, Lee & Gooch
6011 N Robinson
Oklahoma City, OK 73118-7425

MARC EDWARDS
Marc Edwards

00089790.DOC

EXHIBIT A

**Non-Rural Telephone Company Wire Centers and Rural Telephone Company Study Areas
in Which Dobson Seeks Immediate Designation as a Competitive ETC**

Non-Rural Telephone Company Wire Centers	
Company Name	Wire Center
Southwestern Bell – Oklahoma	AFTNOKMA ALLWOKMA BRVLOKED CDWRKSLU CFVLKS10 CHTPKSBE CMMROKMA COPNOKMA DEWYOKMA DLWROKMA FRLDOKMA GRVEOKMA MIAMOKMA NOWTOKMA PCHROKMA QUPWOKMA THLQOKCO THLQOKHU THLQOKMA VINTOKMA WSTVOKMA
Valor Telecommunications of OK, LLC	RAMNOKXA

Rural Telephone Company Study Areas

Company Name	Study Area (Wire Centers Comprising Study Area)
Atlas Telephone Co.	BGCBOKXA BLJKOKXA WLCHOKXA
CenturyTel of NW Arkansas – Russelville	CLCROKXA MYVLARXA
CenturyTel of NW Arkansas – Siloam Springs	SMSPARXA
Craw-Kan Telephone Coop., Inc. – KS	BRTLKSXA EDNAKSXA
Grand Telephone Co. Inc.	DSNYOKXA JAYOKXA
Ozark Telephone Company	SWCYMOXA
Seneca Tel. Co.	SENCMOXA TIFFMOXA
South Central Tel. Assn. Inc – KS	BURLOKXA BYRNOKXA
Wyandotte Telephone Company	WYNDOKXB

EXHIBIT B

**Rural Telephone Company Wire Centers in Which Dobson Seeks Designation as a
Competitive ETC Subject to Redefinition of the Service Area Requirement**

Company Name	Wire Center
ALLTEL Oklahoma	ASLDOKXA BRFLOKXA DTLROKXA BTLROKXA CANTOKXA CANTOKXA CORNOKXA CORNOKXA DLCYOKXA FOSSOKXA FOSSOKXA GOTBOKXA GRTYOKXA HMMNOKXA HMMNOKXA KIOWOKXA MTVWOKXA RSVTOKXA SNYDOKXA SVNNOKXA
Central Oklahoma Telephone Co.	BOLYOKXA CSTLOKXA
Cherokee Telephone Co.	APLROKXA ATWDOKXA STRTOKXA
Chouteau Telephone Co.	PGGSOKXA
Cross Telephone Co.	KFTNOKXA LGTWOKXA PORMOKXA QNTNOKXA WBFLOKXA WRNROKXA

Company Name	Wire Center
Hinton Telephone Co.	CLNYOKXA CLNYOKXA EKLYOKXA HITNOKXA LOKBOKXA
Oklahoma ALLTEL, Inc.	BARNOKXA STWLOKXA
Oklahoma Communication Systems, Inc.	CYRLOKXA GRMTOKXA VRDNOKXA
Panhandle Telephone Cooperative, Inc.	LVRNOKXA
Pottawatomie Telephone Co.	BWLGOXKA SSKWOKXA
Salina-Spavinaw Tel. Co., Inc.	FLNTOKXA KNSSOKXA
Totah Telephone Co., Inc.	LNPHOKXA OCHLOKXA OGLSOKXA WANNOKXA

Company Name	Wire Center
Pioneer Tel. Coop., Inc.	ALINOKXA AMESOKXA APCHOKXA ARNTOKXA ARNTOKXA BFLOOKXA CHESOKXA CLSPOKXA CRMNOKXA CRTROKXA CSTROKXA CVTNOKXA DACMOKXA DGLSOKXA DRMDOKXA FARGOKXA FRDMOKXA FTSPOKXA GAGEOKXA GRBROKXA HLNAOKXA HNTROKXA HPTNOKXA HRMNOKXA HRMNOKXA LAHMOKXA MAYOKXA MENOOKXA MRLDOKXA MUTLOKXA MUTLOKXA QNLNOKXA RNWKOKXA SHRNOKXA SHRNOKXA SHTOCKXA SLMNOKXA SNTNOKXA WYNKOKXB

EXHIBIT C

Licensed Service Areas

Dobson Communications
Dobson Cellular Systems and American Cellular Corporation
Oklahoma II Application Study Areas and Wire Centers
Exhibits A and B Combined

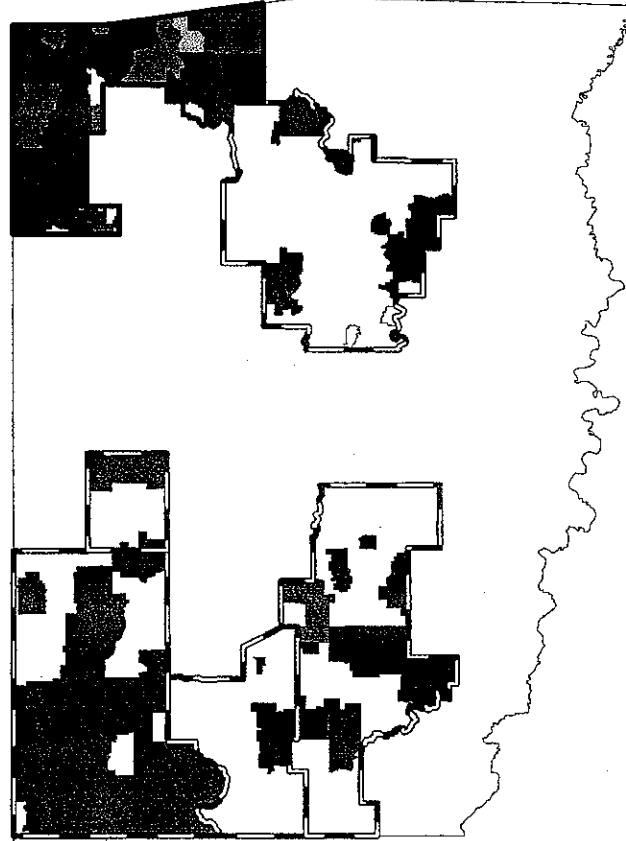


Exhibit A and B Study Areas and Wire Centers By Company

Altel Oklahoma	(15)
Atlas Telephone Co.	(3)
Central Oklahoma Telephone Co.	(2)
CenturyTel of NW Arkansas - Russellville	(2)
CenturyTel of NW Arkansas - Siloam Springs	(1)
Cherokee Telephone Co.	(3)
Chouteau Telephone Co.	(1)
Craw-Kan Telephone Coop., Inc. - KS	(2)
Cross Telephone Co.	(6)
Grand Telephone Co. Inc.	(2)
Hinton Telephone Co.	(4)
Oklahoma Altel, Inc.	(2)
Oklahoma Communication Systems, Inc.	(3)
Ozark Telephone Company	(1)
Panhandle Telephone Cooperative, Inc.	(1)
Pioneer Tel. Coop., Inc.	(35)
Pottawatomie Telephone Co.	(2)
Salina-Spavinaw Tel. Co., Inc.	(2)
Seneca Tel. Co.	(2)
South Central Tel. Assn. Inc - KS	(2)
Southwestern Bell - Oklahoma	(21)
Tollah Telephone Co., Inc.	(4)
Valor Telecommunications of OK, LLC	(1)
Wyandotte Telephone Company	(1)

Dobson Communications Combined
Oklahoma Market Boundary



EXHIBIT D

Population Density Analysis

Summary of Study Area Population Density - Oklahoma

The following table compares the population density per square mile for those areas in which ACC is seeking designation as a federal eligible telecommunications carrier ("ETC") with those areas in which Dobson is not seeking ETC designation.

Company Name	Service Area	Total Area (per sq. mi.)	Total Population	Population Density (per sq. mi.)
Alltel Oklahoma	Area Requesting Designation	2068.73	18360	8.88
	Area Not Requesting Designation	1784.46	15934	8.93
Central Oklahoma Telephone Co.	Area Requesting Designation	274.71	3608	13.13
	Area Not Requesting Designation	216.12	4980	23.04
Cherokee Telephone Co.	Area Requesting Designation	202.26	2003	9.9
	Area Not Requesting Designation	290.72	9704	33.38
Chouteau Telephone Co.	Area Requesting Designation	69.16	1632	23.6
	Area Not Requesting Designation	163.24	6978	42.75
Cross Telephone Co.	Area Requesting Designation	326.1	10537	32.31
	Area Not Requesting Designation	670.24	17826	26.6

Hinton Telephone Co.	Area Requesting Designation	379.1	5309	14
	Area Not Requesting Designation	465.49	3672	7.89
Oklahoma Aitkel, Inc.	Area Requesting Designation	388.86	14807	38.08
	Area Not Requesting Designation	660.2	26521	40.17
Oklahoma Communication Systems, Inc.	Area Requesting Designation	185.6	4015	21.63
	Area Not Requesting Designation	654.24	40216	61.47
Panhandle Telephone Cooperative, Inc.	Area Requesting Designation	395.06	1722	4.36
	Area Not Requesting Designation	5395.12	29310	5.43
Pioneer Tel. Coop., Inc.	Area Requesting Designation	5758.72	30138	5.23
	Area Not Requesting Designation	5380.02	79297	14.74
Pottawatomie Telephone Co.	Area Requesting Designation	74.75	1763	23.65
	Area Not Requesting Designation	221.42	4469	20.18
Salina-Spavinaw Tel. Co., Inc.	Area Requesting Designation	318.45	10095	31.7
	Area Not Requesting Designation	193.47	11640	60.16
Totah Telephone Co., Inc.	Area Requesting Designation	281.35	4004	14.23
	Area Not Requesting Designation	519.28	2559	4.93

EXHIBIT E

High-Cost Certification Letter

Irene Flannery
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
2120 L Street, N.W.
Suite 600
Washington, D.C. 20037

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 – 12th Street, S.W.
Washington, D.C. 20554

Irene Flannery
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
444 Hoes Lane
RRC 4A1060
Piscataway, NJ 08854

**Re: CC Docket No. 96-45, Federal-State Joint Board on Universal Service
Dobson Cellular Systems, Inc. and American Cellular Corporation
47 C.F.R. §§ 54.313 & 54.314 Certification**

Ms. Dortch and Ms. Flannery:

The Oklahoma Corporation Commission ("OCC") has designated Dobson Cellular Systems, Inc., for itself and on behalf of its subsidiary licensees Oklahoma Independent RSA 7 Partnership and Oklahoma Independent RSA 5 Partnership, and its affiliate American Cellular Corporation (collectively "Dobson") as an eligible telecommunications carrier ("ETC") in the State of Oklahoma. The OCC's Order designating Dobson as an ETC is enclosed as **Exhibit A**.

This letter is OCC's certification to the Federal Communications Commission ("FCC") and Universal Service Administrative Company ("USAC") that all federal high-cost universal service support provided to Dobson in Oklahoma will be used only for its intended purposes under Section 254(e) of the Telecommunications Act of 1996 ("Act").

Dobson has certified to the OCC that all federal high-cost universal service support received by the Company in Oklahoma will be used pursuant to Section 254(e) of the Act.

Accordingly, OCC hereby certifies that all federal high-cost universal service support received by Dobson will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This letter serves as a supplemental certification to the annual certification filed by OCC, pursuant to FCC Rules 54.313(c) and 54.314(c). This supplemental certification is to ensure that Dobson is eligible to receive high-cost universal service support beginning on the date of the Company's ETC designation.

If you have any questions or concerns regarding this certification, please contact me at your convenience.

By the Commission

Enclosure

cc: Dobson Cellular Systems
American Cellular Corporation

**BEFORE THE CORPORATION COMMISSION
OF THE STATE OF OKLAHOMA**

In the matter of DOBSON CELLULAR)
SYSTEMS, INC. and AMERICAN)
CELLULAR CORPORATION application)
for designation as a competitive eligible)
telecommunications carrier and redefinition)
of the service area requirement pursuant to)
Section 214(e) of the Telecommunications)
Act of 1996)

Case No. _____

CERTIFICATION OF THOMAS COATES

Thomas Coates, hereby certifies as follows:

1. I serve as Vice President, Corporate Development for Dobson Communications and each of its affiliates, including Dobson Cellular Systems, Inc. and American Cellular Corporation.
2. I have reviewed the forgoing Application and the facts stated therein, of which I have personal knowledge, are true and correct to the best of my present knowledge, information and belief.
3. I certify, under penalty of perjury, that all federal high-cost universal service support will be used by American Cellular Corporation only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act of 1996.

Date: March 1, 2005

Dobson Cellular Systems, Inc.
American Cellular Corporation

By Thomas Coates
Thomas Coates
Vice President, Corporate Development

Subscribed and sworn to before me this
1st day of March, 2005

V.L. GREAR
Notary Public

COMM # 97007238

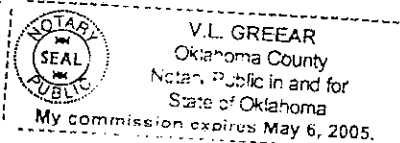


Exhibit C

July 5, 2006 Report of the Administrative Law Judge

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF DOBSON CELLULAR)
SYSTEMS, INC. AND AMERICAN)
CELLULAR CORPORATION APPLICATION)
FOR DESIGNATION AS A COMPETITIVE)
ELIGIBLE TELECOMMUNICATIONS)
CARRIER AND REDEFINITION OF THE)
SERVICE AREA REQUIREMENT PURSUANT)
TO SECTION 214(e) OF THE)
TELECOMMUNICATIONS ACT OF 1996)

CAUSE NO. PUD 200500122

FILED
JUL 05 2006

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

HEARING: July 12-13, 2005

Before Maribeth D. Snapp, Administrative Law Judge

APPEARANCES:

David Dykeman, Deputy General Counsel
Bennett Abbott, Assistant General Counsel for Public Utility Division
Oklahoma Corporation Commission
Marc Edwards and Mark J. Ayotte, Attorneys for Dobson Cellular
Systems, Inc. and American Cellular Corporation
Ron Comingdeer, Attorney for Atlas Telephone Company, Central
Oklahoma Telephone Company, Cherokee Telephone Company,
Cross Telephone Company, Grand Telephone Company, Hinton
Telephone Company, Ozark Telephone Company, Panhandle
Telephone Cooperative, Inc., Pioneer Telephone Cooperative, Inc.,
Seneca Telephone Company, and South Central Telephone
Association, Inc.
Sandra Benischek Harrison, Attorney for Pottawatomie Telephone
Company and Salina-Spavinaw Telephone Company
Cody B. Waddell, Attorney for Oklahoma Communication Systems, Inc.
and Wyandotte Telephone Company
Kimberly K. Brown, Attorney for Chouteau Telephone Company, Total
Telephone Company, Inc., and Pine Telephone Company, Inc.

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL HISTORY

On March 2, 2005, Dobson Cellular Systems, Inc., for itself and on behalf of its subsidiary licensees, Oklahoma Independent RSA 5 Partnership and Oklahoma Independent RSA 7 Partnership ("Dobson"), and its affiliate, American Cellular Corporation ("ACC"), filed an Application for Designation as a Competitive Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement Pursuant to Section 214(e) of the Telecommunications Act of 1996 (the "Application"). Specifically, Dobson and ACC sought an

Order from the Commission designating each of them as a competitive federal eligible telecommunications carrier (“ETC”) in the non-rural telephone company wire centers and rural telephone company study areas identified in Exhibit A to the Application for the purposes of receiving federal universal support and conditionally designating Dobson and ACC in the wire centers identified in Exhibit B to the Application subject to FCC approval to redefine the service area requirement from the study area to the individual wire center level. ACC also requested that the Commission certify its use of federal universal service support, pursuant to 47 U.S.C. § 254(e) and 47 C.F.R. §§ 54.313 and 54.414, effective as of the date of designation. Neither Dobson nor ACC sought designation as a State ETC for purposes of receiving support from the Oklahoma Universal Service Fund (“OUSF”). Dobson and ACC also filed a Motion for Procedural Schedule and Motion for Protective Order along with the Application on March 2, 2005. On March 18, 2005, the Commission entered Order No. 502826 granting the Motion for Protective Order, and on April 21, 2005, the Commission entered its Procedural Order, Order No. 504258.

The prepared testimony of Thomas A. Coates (“Mr. Coates”) and Don J. Wood (“Mr. Wood”) was filed on behalf of Dobson and ACC in support of the Application on April 20, 2005. On June 3, 2006, the prepared testimony of Wesley Robinson (“Mr. Robinson”) on behalf of Atlas Telephone Company, *et al.*, and Glenn Brown (“Mr. Brown”) on behalf of Oklahoma Communications Systems, Inc. (“OCSI”) and Wyandotte Telephone Company (“Wyandotte”) was filed in response to the Dobson and ACC testimony. The rebuttal testimony of Mr. Coates and Mr. Wood was filed on June 10, 2005 to address issues in both Mr. Robinson and Mr. Brown’s responsive testimony. Mr. Coates’ rebuttal testimony included Exhibit TC-4, an amended list detailing the identification of each wire center and study area where Dobson and ACC were seeking designation. On June 30, 2005, the testimony of Barbara L. Mallett (“Ms. Mallett”) was filed on behalf of Commission Staff. Exhibit lists and testimony summaries were filed by the parties on July 7, 2005. Supplemental rebuttal testimony of Mr. Coates and Mr. Woods was filed on July 8, 2005 to address concerns raised by Ms. Mallett. On July 13, 2005, the prefiled testimony of Ms. Mallett containing Staff’s formal recommendations was filed.

After hearing the matter on the merits on July 12-13, 2005, the Administrative Law Judge (“ALJ”) requested post-hearing briefing on two issues: (1) whether the new federal ETC designation requirements established by the FCC in the Report and Order issued March 17, 2005, were applicable to the proceeding and (2) whether a public interest finding to grant designation in certain wire centers of a redefined study area necessitates a finding that it is in the public interest to designate subsequent competitive ETC applicants in other wire centers of the redefined study area. On August 19, 2005, the parties filed post-hearing briefs on those two issues.

On December 29, 2005, a Motion to Substitute Counsel was filed on behalf of Pottawatomie Telephone and Salina-Spavinaw Telephone. The Motion was granted pursuant to Commission Order No. 518018 on January 13, 2006, and Sandra Benischek Harrison was substituted as attorney for Pottawatomie Telephone and Salina-Spavinaw Telephone.

SUMMARY OF THE EVIDENCE

1. Testimony Summary of Thomas A. Coates and Don J. Wood on Behalf of Dobson and ACC

Mr. Coates provided direct and rebuttal testimony on behalf of Dobson and ACC. Mr. Coates testified that he is currently employed by Dobson as Vice President, Corporate Development and provides strategic analytical services for Dobson and its affiliated entities.

Mr. Wood also provided direct and rebuttal testimony on behalf of Dobson and ACC. Mr. Wood testified he is a principal in the economic and financial consulting firm of Wood & Wood and provides economic and regulatory analysis of the telecommunications, cable, and related convergence industries with an emphasis on economic policy, competitive market development, and cost-of-service issues. Mr. Wood has previously testified on telecommunications issues before the regulatory commissions of 39 states, Puerto Rico and the District of Columbia. Mr. Wood is familiar with the application of universal service mechanisms at both the state and federal level. He has analyzed applications of carriers seeking designation as an ETC and has presented testimony regarding such applications in a number of states.

In their direct testimony, Mr. Coates and Mr. Wood testified that Dobson and ACC meet the basic criteria for designation as an ETC and (with regard to areas served by rural telephone companies, where a public interest standard applies), the designation of Dobson and ACC as an ETC is in the public interest. Mr. Coates explained that Dobson was previously designated as an ETC by the Commission in Cause PUD No. 200300239 ("*Oklahoma I*"), and that decision should serve as guidance in this Cause. Mr. Coates' and Mr. Wood's direct testimony further explains that the request for redefinition of the service area requirement should be granted. In their rebuttal testimony, Mr. Coates and Mr. Wood responded to testimony filed by Mr. Robinson on behalf of Atlas Telephone Co. *et al.*, Mr. Brown on behalf of Oklahoma Communications Systems, Inc. and Wyandotte Telephone Company, and Staff witness Ms. Mallett.

Mr. Coates explained in his direct testimony that to be designated as an ETC, a telecommunications carrier must show it is a common carrier. Mr. Coates testified that Dobson and ACC, as providers of CMRS, are common carriers under federal law. In his rebuttal testimony, Mr. Coates noted that satisfaction of this requirement is undisputed.

Mr. Coates also explained that to be designated as an ETC, a carrier must also show that it offers the nine supported services or functionalities identified by the FCC. Mr. Coates testified that Dobson and ACC currently provide all of the nine supported services using their existing networks in Oklahoma. In his rebuttal testimony, Mr. Coates explained that there are only a few specific challenges to the provision of aspects of the nine supported services.

In response to Mr. Robinson's testimony concerning the provision of access to emergency services, Mr. Coates explained that Mr. Robinson's analysis of the E911 obligations of a wireless ETC is meritless. Mr. Coates testified that Phase II E911 service is being timely deployed in Grady County, Oklahoma. Mr. Coates explained that reporting requirements concerning the provision of Phase II E911 service in Grady County are unnecessary because the

deployment of Phase II E911 in Grady County in the next few months will very likely pre-date the Commission's final Order in this Cause.

Mr. Coates also responded to Mr. Brown's and Ms. Mallett's argument that a specific minimum amount of local usage minutes should be included in the Dobson and ACC service offerings. There is no applicable requirement, either in federal law or in Oklahoma-specific orders or rules, that an ETC applicant must provide a specific minimum amount of local usage. Ms. Mallett's statement that the *Oklahoma I* order required Dobson to include a minimum of 500 local usage minutes in its supported service offerings is incorrect. Mr. Brown's argument concerning local usage appears to be based on the FCC's March 17, 2005 *Federal ETC Order*, which is not applicable in this Cause (as set forth below). Even if the comparability requirement imposed in the *Federal ETC Order* were relevant, Dobson's and ACC's larger local calling areas and bundled long distance offset the "unlimited local usage" offered by the ILEC. In his rebuttal testimony, Mr. Wood also explained that a requirement to provide "unlimited local usage" is at odds with the competitive benefit of consumer choice that will result from the designation of Dobson and ACC.

Mr. Coates explained in his direct testimony that a telecommunications carrier seeking ETC designation must also advertise the availability of the supported services and charges through media of general distribution. Mr. Coates testified that Dobson and ACC currently advertise in Oklahoma under the "Dobson" and "CellularOne" brand names through newspaper, radio, television, billboard, print advertising, point-of-sale marketing and over the Internet. Dobson and ACC will use the same media that they currently employ to advertise the supported services throughout their requested service areas. In his rebuttal testimony, Mr. Coates refuted Robinson's arguments concerning the advertising of Lifeline service, testifying that Dobson's Lifeline advertising efforts are consistent with applicable requirements and generally exceed those of the ILECs.

In his direct testimony, Mr. Coates testified that Dobson and ACC can offer and provide the supported services throughout the areas where they seek designation as an ETC using their own facilities. Mr. Coates testified that these areas consist of certain wire centers served by non-rural telephone companies, the full study areas of certain rural telephone companies, and individual wire centers of other rural telephone companies. Coverage already extends substantially throughout the areas where Dobson and ACC seek designation in this proceeding, demonstrating that they have the capability to offer and provide service as required of an ETC. In his rebuttal testimony, Mr. Coates explained that Dobson has withdrawn its request for ETC designation in a few wire centers, and provided Exhibit TC-4, an amended list of the areas where Dobson and ACC are seeking ETC designation.

Mr. Coates' rebuttal testimony responded to Mr. Brown's arguments concerning Dobson's and ACC's ability to provide service throughout the requested service areas. Mr. Coates demonstrated that Mr. Brown's coverage maps are faulty because they incorrectly represent the licensed areas, they include only about one-third of the cell sites Dobson and ACC use to propagate signal coverage in the areas where they seek designation, and they are based on erroneous assumptions about the level of signal coverage necessary.

Mr. Coates also refuted Mr. Brown's and Ms. Mallett's suggestion that the Commission should require Dobson and ACC to provide a build-out plan as a condition for ETC designation – no such requirement is applicable and a build-out plan is unnecessary because Dobson's and ACC's signal coverage already extends substantially throughout the areas where Dobson and ACC seek ETC designation. Mr. Coates noted that a requirement to submit a five-year plan is essentially duplicative of obligations with which Dobson and ACC will have to comply pursuant to the Subchapter 23 Rules: the five-year plan is a tool for identifying projected and actual uses for support, yet OAC 165:55-23-3(g) already provides the Commission a detailed mechanism for doing so. In his rebuttal testimony, Mr. Wood further testified that the utility of such a plan is hindered by the fact that changes in the availability of capital, market conditions, and demand can make even a 12-month network improvement plan subject to frequent revisions. Mr. Wood further testified that submission of such a plan will not be as effective as using the certification process to monitor ETCs' use of federal universal service support. Finally, Mr. Coates explained that if any ETC conditions, such as a build-out plan requirement, are imposed, the Commission should not grant an "interim" ETC designation as Ms. Mallett suggests, because such a designation would obligate Dobson and ACC to provide service as an ETC without assurance that they will be eligible for the commensurate funding.

Mr. Coates explained in his direct testimony that the FCC's March 17, 2005 *Federal ETC Order* is not applicable in this Cause because it applies only to proceedings in which the FCC is making an ETC designation pursuant to 47 U.S.C. § 214(e)(6). Mr. Wood's rebuttal testimony provided further reasons why the *Federal ETC Order* is not applicable in this Cause – it was issued after Dobson and ACC initiated this Cause, it does not represent a substantial change from the FCC's previous approach to ETC designation, and the Commission already has the Subchapter 23 Rules in place to govern ETC proceedings. Mr. Coates' and Mr. Wood's rebuttal testimony argued that the Commission should disregard Mr. Robinson's, Mr. Brown's, and Ms. Mallett's arguments that assume applicability of the *Federal ETC Order*. For example, Ms. Mallett's suggestion that Dobson and ACC must certify that they will provide equal access if the Commission orders it to do so is unfounded (such a condition would be impossible in any case, because only the FCC, not the Commission, has authority to order a wireless carrier to provide equal access).

Mr. Coates' direct testimony further explained that Dobson and ACC will comply with the applicable requirements of OAC 165:55-23-1 *et seq.* (the "Subchapter 23 Rules"), which impose requirements on wireless ETCs designated in Oklahoma. Dobson is already subject to the Subchapter 23 Rules for the areas in which it was designated as an ETC in *Oklahoma I*. Upon designation as an ETC in this Cause, Dobson and ACC will continue to comply with the Subchapter 23 Rules and will do so for the areas for which they seek ETC designation in this Cause.

In his rebuttal testimony, Mr. Coates testified that contrary to Mr. Robinson's assertion, Dobson has filed the 2005 annual report required by the Subchapter 23 Rules. Mr. Coates also testified that Dobson and ACC provide access to Telecommunications Relay Service, in compliance with the Subchapter 23 Rules. Mr. Coates also addressed Mr. Robinson's and Ms. Mallett's arguments concerning the imposition of a Carrier of Last Resort ("COLR") obligation. Dobson has not rejected or disavowed its agreement to meet a COLR obligation in the *Oklahoma I* designated areas. Nevertheless, the Commission should not impose a COLR

obligation on Dobson or ACC in this Cause. Doing so would be inconsistent with the Subchapter 23 Rules. In addition, the COLR obligations imposed on ILECs by the Oklahoma regulations cited by Ms. Mallett are inapplicable to Dobson and ACC because they are not seeking eligibility for OUSF. In response to Ms. Mallett's argument that imposition of a COLR obligation is important because of concerns about ETC relinquishment, Mr. Coates noted that any risk of ETC relinquishment resulting from the designation of a competitive ETC is extremely small, highly speculative, and ultimately manageable by the Commission pursuant to the process set forth in 47 U.S.C. § 214(e)(4).

In his direct testimony, Mr. Coates addressed the "public interest" standard that applies to designating an additional ETC in an area served by a rural telephone company. He explained that a public interest analysis should look to whether consumer benefits will be outweighed by any demonstrated adverse impacts on consumers resulting from the designation. He noted that in the *Oklahoma I* proceeding, the Commission found that designation of Dobson as an ETC was in the public interest so long as Dobson complied with certain conditions, which now have generally been incorporated into the Subchapter 23 Rules. Designating Dobson and ACC as an additional ETC in the requested service areas will promote competition and provide general and specific benefits to consumers. These benefits include customer choice and the availability of innovative services in rural areas where competitive service providers are hard to find. Additional factors demonstrating that Dobson's and ACC's designation as an ETC is in the public interest include larger local calling areas, wireless access to emergency services, and a commitment to quality service. Mr. Coates stated that designation of Dobson and ACC as a federal ETC in this Cause will have a *de minimis* effect on the federal universal service fund. Accordingly, designating Dobson and ACC as an ETC will preserve and promote universal service consistent with the public interest.

Mr. Wood's direct testimony also provided extensive information about how designation of Dobson and ACC as an ETC will provide both short-term and long-term competitive benefits, showing that the requested designations are in the public interest. In the short term, end user consumers will benefit from a choice of communications suppliers, technologies, pricing plans, and service options. Over the long term, competitive market forces will force all communications providers, including the ILECs, to become more efficient and responsive to consumer needs. Competitive entry is especially important in rural areas because of the key role telecommunications play in rural economic development – companies making investment and relocation decisions consider the availability of reliable voice services, data services, and wireless services, so rural areas need these services to be available in order to attract investment and jobs. Competitive entry is also very important in rural areas because in an area where fields being worked are far from the road, and where wireline phones along the roadway are few and far between, the availability of wireless communication can save a life.

In his rebuttal testimony, Mr. Coates noted that no witness has specifically challenged Dobson's or ACC's designation in those areas served by non-rural telephone companies, or asserted that the Commission must make a public interest finding before designating Dobson and ACC as an ETC in those areas. In addition, Mr. Coates noted that Staff found Dobson's and ACC's designation as an ETC in this Cause to be in the public interest.

Mr. Coates further explained in his rebuttal testimony that Mr. Robinson's and Mr. Brown's public interest analyses are inconsistent and that the designation requirements set forth in the *Federal ETC Order* should not be made into public interest factors. Mr. Coates stated that in the *Oklahoma I* proceeding, the Commission set forth a four-part public interest analysis, which should be read in a manner consistent with the purposes of the 1996 Telecommunications Act: advancing universal service, ensuring the availability of quality telecommunications services, and promoting the deployment of advanced telecommunications to rural and high-cost areas. Mr. Coates demonstrated that designation of Dobson and ACC as an ETC is in the public interest under the Commission's public interest analysis, because it will 1) result in numerous benefits to consumers; 2) serve the goals of universal service; 3) increase the opportunity for currently unserved customers to receive service; and 4) not result in any adverse effect on the public.

Mr. Wood noted in his rebuttal testimony that Mr. Brown sought to assess Dobson's and ACC's ETC designation using the public interest factors set forth in *Virginia Cellular*. Mr. Wood demonstrated that contrary to Mr. Brown's conclusion, application of the *Virginia Cellular* analysis leads to the conclusion that designation of Dobson and ACC as an ETC is in the public interest. First, the designations will lead to the benefits of competitive choice (such as competitive alternatives, new services, lower prices, and competitive market incentives). Second, the impact of Dobson's and ACC's designation on the federal universal service fund will be negligible, and is far outweighed by the universal service funding received by ILECs. Third, Dobson's and ACC's service provides unique advantages; the best proof of this is the customers who subscribe to the service. Fourth, Dobson and ACC will provide high quality customer service, as evidenced by their commitments to comply with the CTIA Consumer Code. Finally, Dobson and ACC are able to provide the supported services throughout the requested service areas within a reasonable time frame because their coverage already extends substantially throughout its requested service areas.

In their rebuttal testimony, Mr. Coates and Mr. Wood testified that Mr. Robinson's and Mr. Brown's testimony regarding the public interest analysis is fatally flawed because both fail to consider most of the public interest benefits that will arise from designation of Dobson and ACC as ETCs. Also, Mr. Brown and Mr. Robinson both mischaracterize the impact of the designation on the federal universal service fund and other speculative and over-generalized costs as adverse effects on the public. Mr. Wood testified that although Mr. Brown and Mr. Robinson emphasize that this proceeding should be "fact-intensive," they do not provide any specific facts related to any ILEC service area in which Dobson or ACC seek designation that would justify a rejection of the Application.

Mr. Coates' rebuttal testimony explained that benefits of Dobson's and ACC's services include the commitment to consumer protection and high quality service as evidenced by their adoption of the CTIA Code and the ability to remain functional in emergency situations. Contrary to Ms. Mallett's assertion, Dobson and ACC have provided detailed and substantial evidence of their ability to remain functional in emergency situations. Mr. Coates noted some Oklahoma consumers are currently without telephone service, and that designation of Dobson and ACC as an ETC may result in increased opportunities for them to receive telecommunications service.

In his direct testimony, Mr. Wood stated that ILECs opposing competitive ETC designations often try to improperly broaden the scope of the proceeding, asking regulators to consider broad policy questions such as the benefits and costs of competitive entry in rural areas and of granting ETC status to more than one carrier in such areas. Indeed, in his rebuttal testimony, Mr. Wood explained that Mr. Brown's and Mr. Robinson's testimony raised these very issues. The Commission should recognize that the FCC and the Fifth Circuit Court of Appeals have held that the purpose of the federal universal service system is to protect rural consumers, not the ILECs, and should resist the temptation to second-guess the FCC's policy decisions.

Mr. Wood rebutted many of Mr. Brown's policy arguments. Mr. Wood demonstrated in his rebuttal testimony that the Commission should ignore Mr. Brown's "argument by innuendo" strategy – the allegedly improper use of funds by another carrier in another state provides no relevant information to the Commission for use in this Cause. In rebuttal to Mr. Brown's testimony that receipt of universal service support could provide a "windfall" to Dobson and ACC, Mr. Wood first explained that even Mr. Brown acknowledges that this issue is "well beyond the scope of this proceeding." Mr. Wood further testified that no windfall can occur because of the limitations on Dobson's and ACC's use of universal service funds.

Mr. Wood explained in his rebuttal testimony that Mr. Brown's allegation that Dobson and ACC will use federal universal service support in an improper manner is without factual support and simply reflects Mr. Brown's misunderstanding of the federal universal service mechanism. Contrary to Mr. Brown's assumption, Dobson and ACC are not obliged to use federal universal service support only for the construction of new towers, but instead must use support for "the provision, maintenance, and upgrading of facilities and services for which the support is intended" pursuant to 47 U.S.C. § 254(e). Mr. Wood demonstrated that Mr. Brown's allegation also ignores the checks and balances, such as USAC's audit power and the Commission's certification process, which ensure that Dobson and ACC use federal universal service support appropriately.

Mr. Wood's rebuttal testimony also refuted Mr. Brown's suggestion that Dobson and ACC have an incentive to avoid extending service. Again, this is based on Mr. Brown's assumption that tower construction is the only means by which Dobson and ACC may extend service. Further, disaggregation prevents a competitive ETC from receiving high levels of support for customers in low cost areas. Most of all, the "service upon reasonable request" standard, which is based on both the FCC's decisions and the Subchapter 23 Rules, constitutes an enforceable commitment to extension of service with which Dobson and ACC must comply.

In rebuttal to Mr. Brown's argument that Dobson and ACC should be denied ETC designation because they are already providing service in the areas where they are seeking designation, Mr. Wood testified that just as the rural ILECs received implicit or explicit support while providing service and expanding their facilities, so should Dobson and ACC. Mr. Wood further demonstrated that Mr. Brown's argument that Dobson and ACC should be denied ETC designation because they already provide service is fundamentally inconsistent with Mr. Brown's other argument that Dobson and ACC should be denied ETC designation because their service does not extend to 100% of the geographic areas where they are seeking designation. In addition, the FCC has repeatedly made it clear that the existence of "dead spots" does not

preclude designation as a wireless ETC. Moreover, wireline carriers themselves do not provide service to 100% of the areas where they serve – instead they only provide service at locations where customers can be attached to their networks. Dobson's and ACC's service provides the potential for much wider service throughout the requested service areas. As the FCC has recognized, the mobile service provided by Dobson and ACC, although not a supported service, represents a key public benefit of Dobson's ETC designation.

Mr. Wood rebutted Mr. Brown's argument that designation of Dobson and ACC as an ETC will cause other wireless carriers in Oklahoma to seek ETC status. Mr. Wood testified that this has not happened in other states, because not all wireless carriers follow the same business model, and because market forces limit the number of competitive ETCs.

Mr. Wood testified on rebuttal that Mr. Brown's assertions regarding the possible impact of Dobson's and ACC's designation on the size of the federal universal service fund are incorrect and beyond the scope of this Cause. First, Mr. Wood explained that growth in the size of the federal universal service fund has been caused more by the extended transition period granted by the FCC to rural ILECs than by the increase in support to competitive ETCs. Second, in order to identify the most efficient network configuration, and thus minimize the size of the federal universal service fund in the long term, the fund may grow in the short term.

Mr. Wood's rebuttal testimony also included a detailed analysis of the flaws in Mr. Brown's network inefficiency analysis. Mr. Wood testified that the first significant flaw is that Mr. Brown failed to precisely define the variables (such as "fixed costs") he relies on, so that his analysis is over-generalized. Second, Mr. Brown assumed that the density of households in a rural wire center or service area can be used to predict per-line network costs in that area. This assumption is incorrect because in rural areas, households are not evenly distributed, but are instead clustered. Thus, the average number of households in a given service area is not likely to provide a meaningful approximation of the average per-line investment needed to provide telephone service there. Third, Mr. Brown's testimony is based on a misunderstanding of the Benchmark Cost Proxy Model ("BCPM"), resulting in an overstatement of the cost per line to serve a given area. Fourth, Mr. Brown incorrectly assumed that telephone investment is engineered at the wire center level. Mr. Wood's rebuttal testimony demonstrated that because of these analytical errors, Mr. Brown's network efficiency analysis is inaccurate.

Finally, Mr. Wood testified in his rebuttal testimony that Mr. Brown's charts are misleading and provide no useful information. Mr. Brown's Chart II and III vary in scale and omit units, creating a misrepresentation of the relationship between costs and density. In addition, the charts are based on information from the BCPM, which is flawed because it overstates the necessary investment in network facilities and relies on false assumptions concerning where telephone network facilities can be built. In addition, Mr. Brown's charts fail to consider long term impacts on efficiency and cost resulting from competitive entry.

Mr. Coates' direct testimony explained that in order to be designated as an ETC in wire centers in rural telephone company study areas that Dobson or ACC cannot serve in their entirety, Dobson and ACC seek redefinition of the service area requirement. Mr. Coates noted in his rebuttal testimony that no parties have opposed Dobson's and ACC's request for redefinition of the service area requirement.

Mr. Wood's direct testimony set forth the basis for Dobson's and ACC's redefinition request. An ETC applicant must demonstrate its ability to serve the incumbent ETC's entire "service area." For a rural telephone company, "service area" means the company's entire study area, unless and until the FCC and state commission act in concert to redefine the service area requirement. Redefinition is necessary in this Cause because the areas in which Dobson and ACC can serve do not encompass the entirety of some of the rural telephone company study areas in which Dobson and ACC seek to provide service as an ETC. Thus, absent redefinition, Dobson and ACC will not be able to be designated as an ETC in those areas. Mr. Wood noted that the FCC has found that redefinition facilitates competition and serves the universal service policy objectives of the 1996 Telecommunications Act.

In his direct testimony, Mr. Wood explained that in considering a redefinition request, the Commission must consider three factors set forth by the Federal-State Joint Board on Universal Service ("Joint Board"): 1) the risk that a competitive provider may try to target service to only low-cost high-support areas (referred to as "creamskimming"); 2) any potential impact on the ILEC's regulatory status as a rural telephone company; and 3) the possibility that redefinition could create administrative costs for the ILEC.

Mr. Wood explained in his direct testimony that creamskimming is not present because Dobson and ACC seek to serve all possible areas within their respective FCC-licensed service areas, and because the ILECs have had the opportunity to disaggregate support (*i.e.*, target support to specific parts of their service areas to reflect geographic cost differences). Mr. Wood further explained that as a practical matter, creamskimming is nearly impossible for a competitive ETC applicant because the economic incentive to creamskim exists only in the rare case where the high-cost and low-cost portions of the ILEC's and wireless carrier's service areas match.

Mr. Wood's direct testimony further explained that in its *Virginia Cellular* decision, the FCC endorsed the use of a population density analysis to determine whether the effects of creamskimming were present. The population density analysis for the areas where Dobson and ACC seek redefinition was introduced in Mr. Coates' direct testimony. Mr. Wood testified that the population density analysis for Dobson's and ACC's requested service areas shows that the population densities of most of the areas in which designation is sought are lower than or equal to the population densities for those areas where they are not seeking designation. This means no effects of creamskimming are present.

Mr. Wood and Mr. Coates responded to Staff's concern about redefinition of the Hinton Telephone Company ("Hinton Telephone") study area. Mr. Coates explained that Staff correctly analyzed the redefinition issue, but was apparently concerned with Dobson's ability to serve the entire Hinton wire center. He testified that pursuant to Service Area Boundary extension agreements, Dobson's coverage extends throughout the Hinton wire center and Dobson is willing and able to accept all obligations of an ETC there. He also noted that Hinton Telephone did not oppose redefinition. Mr. Wood analyzed the population density disparity in the Hinton Telephone study area, showing that the "substantial disparity" in population density the FCC was concerned with in *Virginia Cellular* is not present in this Cause and thus argued redefinition is appropriate pursuant to the applicable federal requirements.

In his direct testimony, Mr. Wood further explained that redefinition will have no effect on the ILECs in whose study areas Dobson and ACC seek designation. It will not change the area they have to serve, it will not impair or affect their unique treatment as rural telephone companies under Section 251(f) of the 1996 Telecommunications Act, and it will not affect the way their costs are calculated or affect the amount of per-line support they receive. Finally, Mr. Wood testified that there is no reason to expect that redefinition will result in any administrative burden on the ILECs. He argued that redefinition of the service area requirement is in the public interest because it will allow Dobson and ACC to bring new services and competition to customers in these areas.

In his direct testimony, Mr. Coates explained that unless the service area requirement is redefined, Dobson and ACC will be precluded from being designated as an ETC in any of those companies' study areas, and accordingly the Commission should grant conditional ETC designation in the wire centers where Dobson and ACC seek designation in those companies' study areas subject to the FCC's concurrence in the redefinition.

Mr. Coates concluded his rebuttal testimony by noting that ACC requested that the Commission include a certification regarding ACC's use of high-cost support in 2005 as part of its ETC order.

2. Testimony Summary of Wesley W. Robinson on Behalf of Atlas Telephone Company, et al.

In his Direct Testimony, Mr. Robinson testified that Dobson has not met the standards for designation as an ETC, as established by the Commission. These standards include 47 U.S.C. §§ 214(e) and 47 C.F.R. §§ 54.1-54904, the requirements contained in OAC 165-55-23, as well as the requirements imposed on Dobson's ETC designation in *Oklahoma I*. Additionally, he stated that his testimony shows that Dobson's designation as an ETC is not in the "public interest" under 47 U.S.C. § 214(e)(2) nor does it meet the minimum standards released by the FCC on March 17, 2005, which the FCC encouraged states to utilize in considering applications for ETC designation.¹

In the event the commission decides to grant Dobson ETC designation in the RTC's service areas, Mr. Robinson provided recommendations regarding ways for the Commission to preserve the public interest by ensuring that customers of universal service are the ultimate beneficiaries of the universal service support that Dobson receives.

Mr. Robison testified that Dobson does not currently provide "access to emergency services," as that term is defined in 47 C.F.R. § 54.101(a)(5), throughout the area for which it seeks ETC designation in this proceeding because it has yet to provide Phase II enhanced 911 service to customers of Dobson's Supported Services within Grady County. The Public Safety Answering Point (PSAP) that administers the 911 program within Grady County sought Phase II enhanced 911 service from Dobson on March 10, 2005. Under current federal rules regarding ETC designation as well as the Federal Telecommunications Act ("Act"), Dobson is required to

¹ See WR-3. (*In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 05-46, "ETC Designation Report and Order" (rel. Mar. 17, 2005).)

provide “access to emergency services” “throughout the service area for which designation is received.”² Additionally, under the Commission’s minimum service standards for wireless ETCs, Dobson is required to offer the supported services “to all end-users of wireless ETCs,” of which Phase II enhanced 911 service is a component where the service has been requested by the local government’s PSAP.³ Mr. Robinson further testified that at the time of hearing in this proceeding, Dobson had not demonstrated its ability to provide Phase II enhanced 911 service to customers throughout the area for which it seeks ETC designation within Grady County. If the Commission were to approve Dobson’s application for ETC designation in this proceeding, because of the important public safety issues associated with emergency services, Mr. Robinson recommended that the Commission require Dobson to file monthly status reports regarding its efforts to deploy enhanced 911 service within Grady County, as well as monthly reports for any future requests from PSAPs within Dobson’s designated ETC service area that seek enhanced 911 services from Dobson. Should Dobson fail to implement enhanced 911 services within six months of a valid PSAP request within Dobson’s ETC designated area, Mr. Robinson recommended that the Commission suspend Dobson’s ETC designation within the wire centers that are not receiving enhanced 911 services pursuant to valid PSAP requests. Additionally, in order to ensure that Dobson’s Phase II enhanced 911 services meet the FCC’s location accuracy requirements, Mr. Robinson recommended that the Commission require Dobson to file detailed location accuracy maps for each wireless technology used to provide the supported services (both projected prior to implementation and actual post implementation) with the Commission and in addition, require affidavits attesting to the completion of enhanced 911 service deployments when requested by PSAPs within Dobson’s ETC designated areas.

Mr. Robinson testified that Dobson has failed to adequately advertise its Lifeline Service in Oklahoma and, with the exception of the compliance tariffs filed with the Commission, Dobson has not notified potential Lifeline Service customers that they would not be required to pay usage charges for minutes of use that exceed those included in their regular monthly service plan. Mr. Robinson also testified that Dobson has failed to notify customers that, if they qualify for Lifeline Service, they may elect the cheapest monthly service plan and not incur any overage charges for calls within their local calling area. Mr. Robinson testified that this failure to disclose important terms and conditions of Dobson’s Lifeline Service to potential Lifeline Service customers represents Dobson’s failure to adequately advertise its Lifeline Service, as demonstrated by the fact that Dobson only has one Lifeline Customer within Oklahoma.

Mr. Robinson testified that Dobson’s Direct Testimony and discovery responses reject the imposition of Carrier of Last Resort (COLR) obligations on Dobson as a condition of ETC designation in Oklahoma. Specifically, in response to discovery requests on this issue, Dobson states that “Dobson believes imposition of COLR status as part of federal ETC designation in the Designated Areas would be improper and *unlawful* and Dobson is *not* willing to accept such COLR obligations.”⁴ (Emphasis added.) Dobson’s position on this issue appears to not have changed, as Dobson has not made any changes to this discovery response.

² 47 C.F.R. 54.201(d) and FTA Section 214(e)(1).

³ OAC 165:55-23-11(a)(1)(D) and (E).

⁴ See WR-15. (RTC Int. 1.46.)

Mr. Robinson testified that Dobson is not licensed to provide service throughout the Longtown and Quinton wire centers of Cross Telephone Company, nor is it licensed to provide service throughout the Hinton wire center of Hinton Telephone Company. Therefore, he recommended Dobson not be granted ETC designation within these three wire centers.

Mr. Robinson testified that Dobson's designation as an ETC within the service areas in this proceeding is not in the public interest, as the Commission has applied its public interest test in *Oklahoma I*. As approved by the Commission in *Oklahoma I*, the following public interest criteria were used to determine whether or not granting ETC designation in a rural telephone company's study area was in the public interest:

1. Will the public receive a benefit from the designation of another carrier as an ETC in this service area? (e.g. will competition lower the cost of basic local service or encourage the provision of advanced services?)
2. Will the goal of universal service be advanced by the designation of another carrier as an ETC in this service area? (e.g. will more customers be connected to the telecommunications network as a result of designating another ETC in this service area?)
3. Will customers who do not have telephone service from the ILEC be able to obtain telephone service as a result of the designation of the carrier as an ETC? (e.g. will the customer have the ability to get telephone service in a location not currently served by the wireline company[?])
4. Will there be any adverse effect upon the public by the designation of another carrier as an ETC in this service area? (e.g. will the additional cost to the federal universal service fund be sufficiently offset by the benefits realized by the public as a result of designating a second ETC within the service area?)⁵

Mr. Robinson testified that Dobson's designation as an ETC within the rural telephone company service areas will not advance these public interest goals. According to Mr. Coates, Dobson is already offering and is able to provide the supported services throughout the entirety of the areas for which it seeks ETC designation.⁶ Dobson has failed to identify any new service that it will make available as a result of ETC designation in this proceeding, with the limited exception of Lifeline Service. Dobson is not capable of providing "advanced services," as those services have been defined by the FCC. Further, Dobson has failed to identify any additional improvements it will make within the designated areas if its designation as an ETC is granted, despite the fact that Dobson projects to receive an additional \$313,644 per month (\$3,763,728 annually) if the Commission approves its designation as an ETC in this proceeding. Dobson has not indicated that it intends to extend service into any new areas that are not currently served by Dobson nor has Dobson committed to use universal service support to make its services more affordable through reduced prices to customers. Such a result contradicts the goals of the federal universal service support program to make quality services available at just, reasonable, and

⁵ *Oklahoma I* at pages 25-26.

⁶ Direct Testimony of Thomas A. Coates at page 12.

affordable rates. Dobson's ETC designation will not result in any consumer being able to receive service who is not already able to receive service from the ILEC, as no RTC has had an unfulfilled service request within the past two years. Additionally, Dobson's ETC designation in this proceeding will further increase demands on the federal universal service fund by \$3,763,728, annually, which will be funded through increased surcharges on all telecommunications service customers' bills. Continued growth in the federal universal service fund as a result of the rapid growth in competitive ETC demands threatens the long-term sustainability of the federal fund.

Lastly, Mr. Robinson testified that the Commission should impose the recent requirements established by the FCC for ETC applicants, which Dobson has failed to present evidence of its ability and willingness to follow. Specifically, Mr. Robinson testified that Dobson should be required to submit in this proceeding, prior to receiving ETC designation, the following information demonstrating its ability to meet the requirements adopted by the FCC and recommended to the states:

1. A five-year plan demonstrating how it will use high-cost universal service support to improve its coverage, service quality or capacity in every wire center for which it seeks ETC designation in this proceeding.
2. Information demonstrating that Dobson will offer at least one unlimited local usage rate plan within every wire center for which it seeks ETC designation for a flat monthly rate comparable to the ILEC's rate within the same wire center. Currently, the RTCs on behalf of whom Mr. Robinson testified, offer unlimited local usage for a flat monthly rate between \$13.00 and \$23.48 per month.
3. A commitment by Dobson to offer equal access to interexchange carriers (IXCs) if any other ETC in the designated areas relinquishes their ETC designations. Dobson's position on this issue, as outlined in its discovery response is that, "Dobson would not agree to offer equal access to IXCs" if another ETC within the areas for which Dobson seeks ETC designation were to relinquish its ETC status.⁷

3. Testimony Summary of Glenn H. Brown on Behalf of OCSI and Wyandotte

Mr. Brown, President of McLean & Brown, a telecommunications consulting firm specializing in universal service issues, testified on behalf of OCSI and Wyandotte for the purpose of commenting on the public interest criteria that the Commission should apply in its investigation of Dobson's application for ETC status to receive high-cost universal service support in certain rural telephone company study areas in the state of Oklahoma.

The Act is clear that multiple ETCs may only be approved in areas served by rural telephone companies upon a finding by the state Commission that such funding would be in the public interest. While the Act provides no specific guidance on how this public interest

⁷ See WR-27. (RTC Int. 1.10.)

determination should be performed, the FCC has provided evolving guidelines over the past five years that have gone through three distinct phases of evolution.

Mr. Brown testified that the early FCC decisions, characterized by the Wyoming and Alabama orders, were based on the premise that competition was in the public interest, and thus providing high-cost support to additional ETCs would also be in the public interest. The second phase in the evolution of the public interest test came with the adoption of the *Virginia Cellular Order*. Due in part to the rapid growth in funding to competitive ETCs based upon its earlier guidance, the FCC concluded that competition, alone, was not sufficient to satisfy the public interest test. The FCC determined that a more stringent public interest test was necessary to assure that the public benefits of supporting multiple carriers exceeded the public costs of supporting multiple networks in high-cost areas.

Importantly, the FCC required the prospective ETC applicant to demonstrate both its ability and commitment to serve throughout the entire service area in a reasonable period of time.

The most recent of the FCC Orders was issued in March of 2005, in response to recommendations from the Joint Board. It provides specific and detailed factual showings that a prospective carrier must make to demonstrate that its application would be in the public interest. Included in these requirements are a detailed five-year plan demonstrating how high-cost funds would be used to improve signal quality in every wire center for which it seeks high-cost support, and demonstrations that it provides local usage comparable to that provided by the incumbent.

Mr. Brown further testified that the reason why is it so important that the ETC applicant provide up-front documentation of how it intends to spend the high-cost funds that it seeks to receive is because under current FCC rules, a competitive ETC receives high-cost funding not based upon costs that it will incur to expand its network further into rural and high-cost areas, but rather based upon costs that the wireline incumbent has already incurred to build out its network to serve as COLR throughout the entire service area. Mr. Brown testified that without the requirement to enter into an enforceable commitment to spend these funds to expand signal coverage throughout the service area, a carrier could simply flow this support to the bottom line or use it for other purposes that do not benefit consumers in the most rural and high-cost portions of the service area. Also, without such documentation and commitment, the Commission would be unable to determine if the prospective applicant would be able to function as a COLR.

Mr. Brown testified that in making rural ETC designations, the Commission must also be aware that certain rural areas may be economically incapable of supporting more than one COLR. In support, Mr. Brown provided the economic rationale why it may be uneconomical to support two carriers, or even two wireless carriers, in certain high-cost areas by way of analogy. A rural highway intersection may be fully capable of supporting one convenience store, but if a store were to be built on each of the four corners, then it is highly unlikely that any one of them could be economically viable. Likewise, supporting multiple carriers, wireline or wireless, in the more rural areas would result in what FCC Chairman Martin has described as “inefficient and/or stranded investment and a ballooning universal service fund.” The ultimate public harm would occur if in certain areas of rural Oklahoma no carrier was capable of functioning as a viable COLR.

Mr. Brown also testified that the Commission should be aware that there is only a finite amount of public money to support high-cost rural telecommunications infrastructure. Given the dramatic growth in recent quarters in funding to competitive ETCs documented in Mr. Brown's testimony, the public interest demands that the Commission develop and enforce strict criteria by which requests for ETC designation can be evaluated, and applications are approved only when the public benefits clearly exceed the public costs. The criteria established by the FCC in their ETC designation order are a step in the right direction, and Mr. Brown argued the Commission should apply these criteria in this case.

Measured against these criteria, Mr. Brown testified that the Commission has no choice but to deny Dobson's application. Dobson provides absolutely no documentation as to how it proposes to use the significant amount of public funds it requests in its application, let alone, how such funding will result in high-quality signal coverage throughout the service area. Likewise, Dobson provides no demonstration that it will provide local usage comparable to that provided by the wireline incumbent. The Commission has no objective criteria to evaluate the public benefits that would result from approval of Dobson's application, and thus cannot make a factual finding that its approval would be in the public interest.

4. Testimony Summary of Barbara L. Mallett on Behalf of Commission Staff

Ms. Mallett testified on behalf of the Commission Staff that Dobson and ACC meet all requirements for designation by the Commission as an ETC for purposes of receiving funding from the USF. Specifically, Ms. Mallet testified that:

- Dobson and ACC, as asserted in the Application, are each a common carrier.
- Dobson has a service area established by the Commission in Cause No. PUD 200300239. Under FCC license Dobson provides wireless digital voice and feature services using its own facilities or a combination of its own facilities and resale of the facilities of other wireless carriers in the following market areas in Oklahoma: the Enid Metropolitan Service Area, Oklahoma 2 – Harper Rural Service Area (RSA), and Oklahoma 6 – Seminole RSA, and as managing general partner of both Oklahoma RSA 5, LP and Oklahoma RSA 7, LP, both of which hold FCC licenses for the provision of CMRS services, in the market areas of Oklahoma 5 – Roger Mills RSA and Oklahoma 7 – Beckman RSA. ACC is licensed to provide CMRS in Adair, Cherokee, Craig, Delaware, Nowata, Ottawa and Washington counties.
- Dobson and ACC have committed to provide the required services throughout the areas where designation is requested, including Dobson's request for designation in the Hinton exchange, although a small portion of that exchange extends beyond Dobson's FCC-licensed territory.
- Dobson and ACC stated in the Application that they own the facilities used to provide the services in Oklahoma.

- In the Application, Dobson and ACC state that they advertise the availability of the service offerings, and the associated rates, in media of general distribution in Oklahoma including radio, television, billboard, print advertising, and through a website. Staff reviewed examples of Dobson's proposed advertising in the course of Cause No. PUD 200300239 and in this Cause and finds the advertising to be acceptable. Staff suggests that Dobson and ACC also provide brochures to the Oklahoma Department of Human Services and the Federal Housing Authority for use in their field offices. These organizations routinely deal with low-income clients and should provide a very effective means of spreading the word regarding Dobson's and ACC's Lifeline offering. Staff also suggested that Dobson and ACC supplement the brochures by detailing the fact that the Lifeline offering includes unlimited local service calling.
- In Staff's view, designation of Dobson and ACC as an ETC would serve the public interest. In the Application and the testimonies of its witnesses, Dobson and ACC supported the public interest requirement of the designation by arguing that such designation will offer rural consumers affordable services comparable to those provided in urban areas, providing them a choice between USF supported service providers, and offering them the benefits of alternative telecommunications technologies. Dobson and ACC also pointed out that subscribers to wireless service are able to access emergency services while away from their homes, something traditional wireline service cannot provide. In the testimonies of its witnesses, Dobson and ACC committed to use the funding received as a result of designation as an ETC to continue to build out and upgrade their networks to improve coverage and signal quality. Dobson and ACC also committed to comply with the requirements of the Commission's rules as expressed in OAC 165:55-23-1 *et seq.* Staff agrees that designation of Dobson and ACC as an ETC is in the public interest.

Ms. Mallett testified as to Staff's position with regard to redefinition of the proposed study area. Staff noted that the RTCs formally agreed to the redefinition of Totah's study area to the exchange level in its Stipulated Agreement. Furthermore, in their testimonies, the RLECs did not argue against redefinition. When questioned by Staff, the attorney of several of the RLECs responded that there "was just no basis" to object to redefinition. In the absence of objection from the RLECs, and based on its analysis that no "cream-skimming" will result, Staff does not object to redefinition of the proposed study areas to the exchange level as required. RLEC territories requiring redefinition are the study areas of ALLTEL Oklahoma, Central Oklahoma Telephone Co., Cherokee Telephone Co., Cross Telephone Co., Hinton Telephone Co., Oklahoma ALLTEL, Inc., Oklahoma Communication Systems, Inc., Panhandle Telephone Coop., Inc., Pioneer Telephone Coop., Inc., Pottawatomie Telephone Co., Salina-Spavinaw Telephone Co., Inc., and Totah Telephone Co., Inc.

Finally, Ms. Mallett made the following recommendations on behalf of the Commission Staff:

- Dobson and ACC should be granted ETC designation in all of the exchanges and study areas listed on Attachments 1a, 1b, and 1c.
- Absent objections of the RLECs, Staff does not object to redefinition of the study areas listed on Attachment 1c.
- The ETC designation should be interim, for a period of 12 months.
- Dobson and ACC should be required to submit the following to the Director of the Public Utility Division at least 90 days prior to the end of the 12-month period:
 - a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area; and
 - sufficient information to demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
- Dobson should be required to submit monthly status reports to the Director of the Public Utility Division regarding its E911 Phase II turn up in Grady County until Phase II is successfully operating.
- Dobson and ACC should be required to certify that they acknowledge that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.
- Dobson and ACC should be required to accept COLR obligations throughout their service territory in Oklahoma.
- In the event that Dobson or ACC fail to satisfactorily provide the required information, plans and commitments within the allowed time, the ETC

designation in this Cause should be revoked and any funds received as a result of the expanded territory should be refunded to the federal Universal Service Fund Administrator.

- Upon Staff's review and approval of the required information, plans and commitments, Dobson's and ACC's ETC designation should be made permanent by Commission order.

POST-HEARING BRIEFING

The ALJ requested post-hearing briefing on two issues: (1) whether the new federal ETC designation requirements established by the FCC in the Report and Order issued March 17, 2005, were applicable to the proceeding and (2) whether a public interest finding to designate Dobson in certain wire centers of a redefined study area necessitates a finding that it is in the public interest to designate subsequent competitive ETC applicants in other wire centers of the redefined study area.

1. Dobson/ACC

Dobson and ACC filed a post-hearing brief on these issues on August 19, 2005, arguing that the Commission and the ALJ are not required to and cannot lawfully apply the new federal designation requirements of the Federal ETC Order in this cause. The Federal ETC Order expressly states that its ETC designation requirements apply only in proceedings before the FCC to designate ETCs pursuant to 47 U.S.C. § 214(e)(6) and are not binding on state commissions. The Federal ETC Order requirements cannot be adopted by the Commission without a rulemaking proceeding and application of them to Dobson in this cause would be impermissibly retroactive. Moreover, there is no demonstrated need or policy justification for the Commission and ALJ to apply the new FCC rules in this cause because the Commission has already adopted analogous wireless ETC rules.

With respect to the second issue, Dobson and ACC argued that the issue of whether a public interest finding to designate Dobson and ACC in certain wire centers of a redefined study area necessitates a finding that it is in the public interest to designate subsequent competitive ETC applicants in other wire centers of the redefined study area need not be determined at this time. As stated by the ALJ in the hearing, a public interest determination allowing the designation of a competitive ETC in certain wire centers of rural telephone company study areas supports the designation of subsequent competitive ETCs in those wire centers consistent with the public interest. However, such a determination does not mandate a similar public interest determination for other wire centers in that study area. Any public interest determination made in this Cause for purposes of Dobson's and ACC's designation in a redefined rural telephone company study area applies only to those wire centers of the redefined study area where Dobson and ACC are designated. Instead of speculatively considering the public interest determination to be made for another carrier in other wire centers in a future ETC proceeding, Dobson argued that the ALJ and Commission need only designate Dobson and ACC as an ETC based on the facts presented in this proceeding and the applicable law.

2. OCSI and Wyandotte

With respect to the first issue, OCSI and Wyandotte argued that although the Commission is not bound in a legal sense to adopt the FCC's additional requirements for ETC designation, it should not ignore encouragement to do so from this country's chief agency responsible for rules and policy concerning telephone companies.

OCSI and Wyandotte also argued that each Commission order must stand on its own and be supported by substantial evidence. A finding by the Commission that it is in the public interest to designate Dobson and ACC as an ETC in a redefined study area of a particular rural incumbent LEC would have no effect upon future applications for ETC designation in the additional exchanges of that particular rural incumbent LEC.

3. Atlas Telephone Company, et al.

In response to the ALJ's request for post-hearing briefing on the first issue, Atlas Telephone Company, *et al.* argued that the Commission has the jurisdiction to impose additional requirements on carriers seeking ETC designation. They cited to the *Texas PUC v. FCC* decision in which the Fifth Circuit found that the Act did not authorize the FCC to prohibit states from imposing additional requirements on carriers otherwise eligible to receive support. This provision is recognized by the FCC in the Federal ETC Order wherein the FCC encouraged state commissions to adopt the additional requirements when deciding whether a common carrier should be designated as an ETC. The FCC also notes that Section 214(e)(2) provides state commissions with the primary responsibility for designating ETCs. The Commission has the jurisdiction to require a carrier requesting ETC designation to comply with any or all of the eligibility requirements set forth by the FCC in the Federal ETC Order.

Atlas Telephone Company, *et al.* also argued that Oklahoma law requires more than a mere recital of asserted public interest, each case must stand alone on the facts presented in that specific case. The Commission's order must also be supported by substantial evidence. They argued that the Federal ETC Order shows that the FCC believes that Section 214(e)(2) demonstrates Congress' intent that state commissions evaluate factual situations in ETC cases and exercise discretion in reaching their conclusions regarding public interest, convenience and necessity as long as such determinations are consistent with state and federal law. Facts vary, and if one could take a public interest finding in one location for one company, there would never be a need to make a public interest finding again anywhere. The Commission cannot rely on facts and evidence presented in one case for a determination made in a different case because facts and circumstances change even though the parties may be the same.

4. Commission Staff

In its post-hearing brief, Commission Staff argued that the Commission may impose additional requirements, including the requirements of the Federal ETC Order, on Dobson and ACC in this Cause and urged the Commission to do so. In support of this argument, Staff cited to the Fifth Circuit decision in *Texas PUC v. FCC*, which stated that nothing in the Section 214(e)(2) mandate to designate a carrier or more than one carrier within a service area prohibits a

state commission from imposing their own eligibility requirements, especially in high-cost rural settings.

Commission Staff also argued that the issue of whether a finding that ETC designation is in the public interest for the remainder of the rural company's service territory need not be answered. The Commission may, at its discretion, include language in the ETC designation order that would specifically prohibit or allow the findings in this Cause from being used in another Cause. In this manner, the Commission may or may not direct that future ETC applications for the instant rural territories will undergo the same rigorous examination to which Dobson and ACC were subjected. Such clear direction from the Commission would prevent the inappropriate use of the Commission's findings here in another Cause.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The ALJ finds as follows:

- 1) The Commission has the discretion to apply the requirements of the FCC's March 17, 2005, ETC Requirement Order when making a determination of whether to grant Dobson and ACC ETC status in the exchanges requested in this Cause. The FCC's March 17, 2005 order encouraged states that exercise discretion over ETC designations pursuant to section 214(e)(2) of the Act to apply the same requirements when deciding whether a common carrier should be designated an ETC, because the additional requirements will allow for a more predictable ETC designation process and will improve the long-term sustainability of the universal service fund.
- 2) In determining whether it is in the public interest to designate an additional ETC within a service area, the Commission should consider the following public interest criteria, which have been used by the Commission in prior Causes to determine whether granting ETC designation in a rural telephone company's study area was in the public interest:
 - a) Will the public receive a benefit from the designation of another carrier as an ETC in this service area? (e.g. will competition lower the cost of basic local service or encourage the provision of advanced services?)
 - b) Will the goal of universal service be advanced by the designation of another carrier as an ETC in this service area? (e.g. will more customers be connected to the telecommunications network as a result of designating another ETC in this service area?)
 - c) Will customers who do not have telephone service from the ILEC be able to obtain telephone service as a result of the designation of the carrier as an ETC? (e.g. will the customer have the ability to get telephone service in a location not currently served by the wireline company?)

- d) Will there be any adverse effect upon the public by the designation of another carrier as an ETC in this service area? (e.g. will the additional cost to the federal universal service fund be sufficiently offset by the benefits realized by the public as a result of designating a second ETC within the service area?)
- 3) There is no requirement that the Commission find it is in the public interest prior to designating Dobson or ACC as an ETC within the service areas of Southwestern Bell Telephone Company d/b/a AT&T Oklahoma or Valor Telecommunications of Oklahoma, LLC. Therefore, the ALJ recommends the Commission designate Dobson and ACC as ETCs within the respective exchanges of AT&T Oklahoma and Valor that are identified on Exhibit A attached hereto.
- 4) Witnesses for Dobson and ACC testified that receipt of federal universal service funds would enable Dobson and ACC to continue to build-out and upgrade their networks to improve coverage and signal quality. Dobson and ACC also committed to comply with the requirements of the Commission's rules as expressed in OAC 165:55-23. The ALJ therefore recommends the Commission find it is in the public interest to designate Dobson and ACC as ETCs in the specific service areas of Oklahoma identified on the attached Exhibit A. Designation of Dobson and ACC as ETCs within the specified areas will offer rural consumers affordable services comparable to those provided in urban areas. Additionally, subscribers to wireless service are able to access emergency services while away from their homes, something traditional wireline service cannot provide.
- 5) Dobson and ACC should be required to file a 5-year build-out plan for any service areas for which they receive designation as an ETC within this Cause. This is consistent with the FCC's recommended standards set forth in the FCC's March 17, 2005, ETC Requirement Order and will enable the Commission to track the progress of Dobson and ACC as they build out their respective networks to increase the reliability and quality of service provided. This will also provide information to the Commission regarding the manner in which Dobson and ACC are utilizing the universal service funds they receive, to improve the quality and reliability of their wireless service. Unless and until such time as the Commission adopts rules that require all non-ILEC ETCs to periodically file a 5-year build-out plan, Dobson should not be required to file a 5-year build-out plan for those service areas for which it was granted designation as an ETC in PUD 200300239.
- 6) It is in the public interest to grant ETC designation for ACC in the service area of Atlas Telephone Company and to grant ETC designation for Dobson in the service area of South Central Telephone Association, Inc.-KS. In addition to the ILEC, these two companies already have at least one company designated as an ETC within their service areas. Designation of an additional ETC within these service areas will increase the competition between the ILEC and the ETC

designated wireless carriers, which should offer customers more services and create more competition based upon available services and price.

- 7) ACC has also requested designation as an ETC within the entire study areas of the following rural telephone companies: CenturyTel of NW Arkansas-Russellville, CenturyTel of NW Arkansas-Siloam Springs, Craw-Kan Telephone Coop, Inc.–KS, Grand Telephone Company, Inc., Ozark Telephone Company, Seneca Telephone Company and Wyandotte Telephone Company. The ALJ recommends the Commission find that it is in the public interest to designate ACC as an ETC within the entire study areas of each of these rural telephone companies. Designation of ACC as an ETC will permit ACC to receive funding from the federal universal service fund for the universal service products it provides, using its own facilities. Monies received from the universal service fund will enable ACC to add facilities and improve the strength of its service signal throughout the service territory of these ILECs, thereby improving the quality of choices available to customers. The ALJ finds that ACC should offer a sufficient number of local exchange minutes within the base price of any service for which it seeks cost support from the federal universal service fund. The ALJ notes that the Commission did not require Dobson to provide a minimum number of local usage minutes when it granted ETC status to Dobson in PUD 200300239. The Commission's rules do not set forth any minimum number of anytime local usage minutes that must be offered prior to receiving reimbursement from the federal and Oklahoma Universal Service Funds and it would undoubtedly create a very confusing situation for customers if ACC were to be required to develop different service plans for different areas of its service territory. Therefore, the ALJ recommends the Commission encourage ACC to provide more than a nominal number of anytime local minutes in each service product for which it seeks funding from the federal universal service fund and/or the Oklahoma Universal Service Fund; thereby creating a local usage plan comparable to the one offered by the ILEC in the service areas for which it seeks designation as an ETC.
- 8) The ALJ recommends the Commission find it is not in the public interest to grant ETC status to Dobson or ACC in the service areas of the rural telephone companies for which Dobson and ACC seek a redefinition of the study area to the wire center/exchange level. Dobson and ACC failed to demonstrate that it would be in the public interest to grant ETC status for only a portion of the exchanges of the identified ILECs. The ILECs serving territory in which Dobson and ACC seek to redefine the study area are listed on Exhibit B and include: ALLTEL Oklahoma, Central Oklahoma Telephone Company, Cherokee Telephone Company, Cross Telephone Company, Hinton Telephone Company, Oklahoma ALLTEL, Inc., Oklahoma Communications Systems, Inc., Panhandle Telephone Cooperative Inc., Pioneer Telephone Cooperative Inc., Pottawatomie Telephone Co., Salina-Spavinaw Telephone Co., Inc. and Totah Telephone Co., Inc. Dobson and ACC are already authorized to provide wireless service in portions of the service area of these rural ILECs, as a result of their authority from the FCC. Therefore, declining to redefine the service area will not prevent Dobson or ACC from continuing to offer wireless service within the exchanges of these ILECs,

but it will potentially prevent Dobson and ACC from obtaining an unfair competitive advantage over other wireless carriers that provide service within only part of the service territory of the ILEC.

- 9) The ALJ recommends that the ETC designation recommended herein for Dobson and ACC be granted on an interim basis, for a period of twelve months. As recommended by the Commission Staff, at least 90 days prior to the end of the 12 month period, Dobson and ACC should be required to file in the Commission's Court Clerk's office the following:
 - a) a five year build-out/investment plan consistent with the FCC's March 17, 2005 Order in Docket No. 96-45;
 - b) sufficient information to demonstrate their ability to remain functional in emergency situations, consistent with the FCC's March 17, 2005 Order in Docket No. 96-45;
 - c) acknowledgement by Dobson and ACC that the FCC may require Dobson or ACC to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area;
- 10) The ALJ recommends that the Commission issue a protective order in this Cause, to protect the confidentiality of Dobson's and ACC's market sensitive information that will be set forth in Dobson's and ACC's five year build-out /investment plan.
- 11) In the event that Dobson or ACC fails to satisfactorily provide the required information, plans and commitments at least 90 days prior to the expiration of the twelve month interim period, the ALJ recommends that the respective ETC designation granted to Dobson or ACC in this Cause be revoked, and any funds received as a result of the expanded territory should be refunded to the federal Universal Service Fund Administrator.
- 12) At the expiration of the twelve-month interim period, Dobson and ACC should file a motion for permanent designation as ETCs within the territory recommended for approval herein. If Dobson and ACC have filed the required information, the Commission should grant Dobson and ACC permanent designation as an ETC within the service areas recommended herein for approval.
- 13) As an ETC, Dobson and ACC will be required to advertise the availability of Lifeline and Link-Up services using media of general distribution. In addition to the proposed advertising reviewed by Staff in this Cause, Dobson and ACC should also be required to provide brochures to the Oklahoma Department of Human Services and the Federal Housing Authority for use in their field offices. The brochures should reflect that Dobson's and ACC's Lifeline offering includes unlimited local service calling.

- 14) Dobson and ACC should be required to accept COLR obligations if the ILEC in the study area relinquishes its federal Universal Service Fund eligibility.
- 15) ACC and Dobson have certified they will utilize all federal high-cost universal service support they receive on or after the date of designation only for the provision, maintenance and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e). Accordingly, the Commission should issue a letter to USAC and the FCC to supplement its annual certification, pursuant to 47 C.F.R. §§ 54.313(c) and 54.314(c), by separately certifying ACC's and Dobson's use of support in accordance with the form attached as Exhibit E to the Application.

RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE

The foregoing Findings of Facts and Conclusions of Law are the Report and Recommendations of the undersigned Administrative Law Judge.

Respectfully submitted this 5th day of July, 2006.

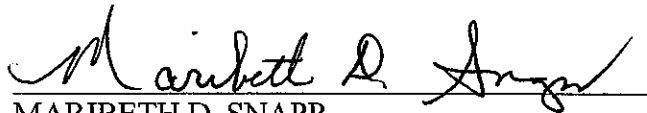

MARIBETH D. SNAPP
Administrative Law Judge

Exhibit A
Non-Rural Telephone Company Wire Centers

Incumbent Telephone Company	Wire Center	Designated CETC
Southwestern Bell – Oklahoma	AFTNOKMA	ACC
	ALLWOKMA	ACC
	BRVLOKED	ACC
	CDWRKSLU	Dobson
	CFVLKS10	ACC
	CHTPKSBE	ACC
	CMMROKMA	ACC
	COPNOKMA	ACC
	DEWYOKMA	ACC
	DLWROKMA	ACC
	FRLDOKMA	ACC
	GRVEOKMA	ACC
	MIAMOKMA	ACC
	NOWTOKMA	ACC
	PCHROKMA	ACC
	QUPWOKMA	ACC
	THLQOKCO	ACC
	THLQOKHU	ACC
	THLQOKMA	ACC
	VINTOKMA	ACC
	WSTVOKMA	ACC
Valor Telecommunications of OK, LLC	RAMNOKXA	ACC

Exhibit A (cont.)
Rural Telephone Company Study Areas

Incumbent Telephone Company	Wire Centers Comprising Oklahoma Study Area	Designated CETC
Atlas Telephone Co.	BGCBOKXA	ACC
	BLJKOKXA	ACC
	WLCHOKXA	ACC
CenturyTel of NW Arkansas – Russelville	CLCROKXA	ACC
	MYVLARXA	ACC
CenturyTel of NW Arkansas – Siloam Springs	SMSPARXA	ACC
Craw-Kan Telephone Coop., Inc. – KS	BRTLKSXA	ACC
	EDNAKSXA	ACC
Grand Telephone Co. Inc.	DSNYOKXA	ACC
	JAY OKXA	ACC
Ozark Telephone Company	SWCYMOXA	ACC
Seneca Tel. Co.	SENCMOXA	ACC
	TIFFMOXA	ACC
South Central Tel. Assn. Inc – KS	BURLOKXA	Dobson
	BYRNOKXA	Dobson
Wyandotte Telephone Company	WYNDOKXB	ACC

EXHIBIT B**Rural Telephone Company Wire Centers in Which Dobson and ACC Seek Designation as a Competitive ETC Subject to Redefinition of the Service Area Requirement**

Incumbent Telephone Company	Wire Center	Designated CETC
ALLTEL Oklahoma	ASLDOKXA	Dobson
	BRFLOKXA	Dobson
	BTLROKXA	Dobson
	CANTOKXA	Dobson
	CORNOKXA	Dobson
	DLCYOKXA	Dobson
	FOSSOKXA	Dobson
	GOTBOKXA	Dobson
	GRTYOKXA	Dobson
	HMMNOKXA	Dobson
	KIOWOKXA	Dobson
	MTVWOKXA	Dobson
	RSVTOKXA	Dobson
	SNYDOKXA	Dobson
	SVNNOKXA	Dobson
Central Oklahoma Telephone Co.	BOLYOKXA	Dobson
	CSTLOKXA	Dobson
Cherokee Telephone Co.	APLROKXA	Dobson
	ATWDOKXA	Dobson
	STRTOKXA	Dobson
Cross Telephone Co.	KFTNOKXA	Dobson
	PORMOKXA	Dobson
	WBFLOKXA	Dobson
	WRNROKXA	Dobson
Hinton Telephone Co.	CLNYOKXA	Dobson
	EKLYOKXA	Dobson
	HITNOKXA	Dobson
	LOKBOKXA	Dobson
Oklahoma ALLTEL, Inc.	BARNOKXA	ACC
	STWLOKXA	ACC
Oklahoma Communication Systems, Inc.	CYRLOKXA	Dobson
	GRMTOKXA	Dobson
	VRDNOKXA	Dobson
Panhandle Telephone Cooperative, Inc.	LVRNOKXA	Dobson

EXHIBIT B (cont.)**Rural Telephone Company Wire Centers in Which Dobson and ACC Seek Designation as a Competitive ETC Subject to Redefinition of the Service Area Requirement (cont.)**

Pioneer Tel. Coop., Inc.	ALINOKXA	Dobson
	AMESOKXA	Dobson
	APCHOKXA	Dobson
	ARNTOKXA	Dobson
	BFLOOKXA	Dobson
	CHESOKXA	Dobson
	CLSPOKXA	Dobson
	CRMNOKXA	Dobson
	CRTROKXA	Dobson
	CSTROKXA	Dobson
	CVTNOKXA	Dobson
	DACMOKXA	Dobson
	DGLSOKXA	Dobson
	DRMDOKXA	Dobson
	FARGOKXA	Dobson
	FRDMOKXA	Dobson
	FTSPOKXA	Dobson
	GAGEOKXA	Dobson
	GRBROKXA	Dobson
	HLNAOKXA	Dobson
	HNTROKXA	Dobson
	HPTNOKXA	Dobson
	HRMNOKXA	Dobson
	LAHMOKXA	Dobson
	MAY OKXA	Dobson
	MENOOKXA	Dobson
	MRLDOKXA	Dobson
	MUTLOKXA	Dobson
	QNLNOKXA	Dobson
	RNWDOKXA	Dobson
	SHRNOKXA	Dobson
	SHTCOKXA	Dobson
	SLMNOKXA	Dobson
	SNTNOKXA	Dobson
	WYNKOKXB	Dobson
Pottawatomie Telephone Co.	BWLGOKXA	Dobson
	SSKWOKXA	Dobson
Salina-Spavinaw Tel. Co., Inc.	FLNTOKXA	ACC
	KNSSOKXA	ACC
Totah Telephone Co., Inc.	LNPBOKXA	ACC

Exhibit D
Joint Stipulation

IN THE MATTER OF:

Cause No. PUD 200500122

This Joint Stipulation is entered into between and among Dobson Cellular Systems, Inc., for itself and on behalf of its subsidiary licensees, Oklahoma Independent RSA 5 Partnership and Oklahoma Independent RSA 7 Partnership, and its affiliate American Cellular Corporation ("ACC") (collectively "Dobson"), and Chouteau Telephone Company, Totah Communications, Inc. and Pine Telephone Company, Inc. (individually and collectively "Rural Telephone Companies"), acting by and through their respective undersigned counsel.

Based on information provided by Dobson, and after consideration of the applicable law, Dobson and the Rural Telephone Companies agree that the Corporation Commission of the State of Oklahoma ("Commission") should accept the following stipulations for purposes of the above-captioned Cause. No party disputes the factual or legal accuracy of the matters set forth in these stipulations. Each party further agrees that the evidence offered, or to be offered, by Dobson in the Cause would establish a basis for the matters set forth in this Joint Stipulation.

As set forth more fully below, the Rural Telephone Companies agree to withdraw their objections and opposition in the above-captioned Cause, agree that for purposes of ACC's designation as an eligible telecommunications carrier ("ETC"), the service area requirement for Totah Communications, Inc. should be redefined from the study area to the wire center level and

the Rural Telephone Companies do not oppose ACC's designation as an additional ETC in the Lenapah wire center.

Consistent with the foregoing, Dobson and the Rural Telephone Companies agree to the following:

1. Dobson agrees to and hereby amends its Application in this Cause to withdraw its request for designation as an additional ETC in the Chouteau Telephone Company study area and redefinition of the service area requirement for that study area.

2. Dobson agrees to and hereby amends its Application in this Cause to limit its request for ETC designation in the Totah Communications, Inc. study area to the Lenapah wire center.

3. Dobson agrees to and hereby amends its Application in this Cause to withdraw its request for designation as an additional ETC in the Ochelata, Ogelsby and Wann wire centers served by Totah Communications, Inc.

4. The Rural Telephone Companies agree to and hereby withdraw their opposition to the Dobson and ACC Application and do not oppose the Commission's issuance of an Order consistent with this Joint Stipulation to redefine the service area requirement for Totah Communications, Inc. to the wire center level for the purpose of conditionally designating ACC as a federal ETC in the Lenapah wire center, subject to the concurrence of the Federal Communications Commission ("FCC") to the redefined service area under 47 C.F.R. § 54.207.

5. The Rural Telephone Companies further agree not to oppose the Application in any manner. The Rural Telephone Companies hereby waive their rights to conduct such discovery, sponsor any witness at hearing, cross-examine any witness at hearing, introduce any evidence at hearing, submit any post-hearing brief or written comments to the Commission and

present any oral argument to the Commission. Further, the Rural Telephone Companies agree not to oppose, or to participate in any manner, any Petition to the FCC, seeking the FCC's consent and concurrence to the Commission's decision to redefine the service area requirement for Totah Communications, Inc.

6. The Rural Telephone Companies further stipulate and do not oppose the Commission's issuance of an Order conditionally designating ACC as an ETC in the Lenapah wire center of Totah Communications, Inc., subject to the FCC's concurrence to the redefined service area requirement.

Dated: May 25, 2005

BRIGGS AND MORGAN, P.A.

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Attorneys for Dobson and ACC

Dated: May 25, 2005

By 
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*Attorneys for Chouteau Telephone Company,
Totah Communications, Inc. and Pine Telephone
Company, Inc.*

Exhibit E

Rebuttal Testimony of Thomas A. Coates

**PUBLIC VERSION – CONFIDENTIAL INFORMATION AND TRADE SECRET DATA
REDACTED.**

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF:

**DOBSON CELLULAR SYSTEMS, INC. and
AMERICAN CELLULAR CORPORATION
application for designation as a competitive
eligible telecommunications carrier and
redefinition of the service area requirement
pursuant to Section 214(e) of the
Telecommunications Act of 1996**

Cause No. PUD 200500122

REBUTTAL TESTIMONY OF THOMAS A. COATES

**ON BEHALF OF DOBSON CELLULAR SYSTEMS INC.
AND AMERICAN CELLULAR CORPORATION**

Dobson Cellular Systems, Inc. and American Cellular Corporation hereby submits attached hereto the Rebuttal Testimony of Thomas A. Coates on behalf of Dobson Cellular Systems, Inc. and American Cellular Corporation.

Phillips McFall McCaffrey
McVay & Murrah, P.C.

By Jennifer Kirkpatrick
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FILED
JUN 10 2005

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CORPORATION COMMISSION
OF OKLAHOMA

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***Attorneys for Dobson Cellular Systems, Inc. and
American Cellular Corporation***

CERTIFICATE OF MAILING

This is to certify that on the 10th day of June, 2005, a true and correct copy of the foregoing instrument was mailed, postage prepaid, to the following:

David Dykeman
Oklahoma Corporation Commission
400 Jim Thorpe Building
P. O. Box 52000-2000
Oklahoma City, Oklahoma 73152-2000

Cody Waddell
2212 N.W. 50th
Oklahoma City, Oklahoma 73112-8086

*Counsel for Valor Telephone Company,
ALLTEL Oklahoma, Inc., Oklahoma
ALLTEL, Inc., Century/Tel of Northwest
Arkansas, LLC, Oklahoma Communications
Systems, Inc. and Wyandotte Telephone
Company*

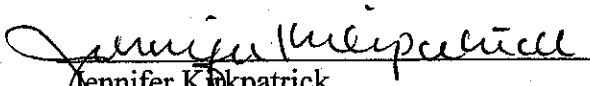
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Telephone Company, Grand Telephone
Company, Hinton Telephone Company,
Ozark Telephone Company, Panhandle
Telephone Cooperative, Inc., Pioneer
Telephone Cooperative, Inc., Pottawatomie
Telephone Company, Salina-Spavinaw
Telephone Company, Seneca Telephone
Company and South Central Telephone
Association, Inc.*


Jennifer Kirkpatrick

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF:

**DOBSON CELLULAR SYSTEMS, INC. and
AMERICAN CELLULAR CORPORATION
application for designation as a competitive
eligible telecommunications carrier and
redefinition of the service area requirement
pursuant to Section 214(e) of the
Telecommunications Act of 1996**

Cause No. PUD 200500122

REBUTTAL TESTIMONY OF THOMAS A. COATES

ON BEHALF OF

**DOBSON CELLULAR SYSTEMS, INC.
AND AMERICAN CELLULAR CORPORATION**

JUNE 10, 2005

PUBLIC VERSION – CONFIDENTIAL INFORMATION AND TRADE SECRET DATA

REDACTED.

1 **Section 1: IDENTIFICATION OF WITNESS, FACTUAL BACKGROUND, AND**
2 **PURPOSE OF TESTIMONY**

3 a. Please state your name, place of employment, and business address.

4 (1) My name is Thomas A. Coates. My business address is 14201 Wireless Way, Oklahoma
5 City, OK 73134. I am employed by Dobson Communications Corporation as Vice
6 President, Corporate Development.

7 b. Are you the same Thomas A. Coates who filed Direct Testimony in this Cause on April
8 20, 2005?

9 (1) Yes. I filed direct testimony on behalf of Dobson Communications Corporation and its
10 subsidiaries and affiliated entities, including Dobson Cellular Systems, Inc. ("DCS"),
11 American Cellular Corporation ("ACC"), Oklahoma Independent RSA 5 Partnership, and
12 Oklahoma Independent RSA 7 Partnership (collectively, "Dobson" or the "Company").

13 c. Since filing your Direct Testimony, have you reviewed the Responsive Testimony of
14 Wesley Robinson and Glenn Brown?

15 (1) Yes. Wesley Robinson presented Responsive Testimony on behalf of Atlas Telephone
16 Company *et al.* (collectively "RTCs") and Glenn Brown presented Responsive Testimony
17 on behalf of Oklahoma Communications Systems, Inc. ("OCSI") and Wyandotte
18 Telephone Company ("Wyandotte").

19 d. What is the purpose of your Rebuttal Testimony?

20 (1) The purpose of my testimony is two-fold. First, I will review and address Dobson's
21 satisfaction of the requirements for designation as an eligible telecommunications carrier
22 ("ETC") in this proceeding. Second, I will respond to certain issues raised in Mr.
23 Robinson's and Mr. Brown's Responsive Testimony. In addition to my testimony, Don J.
24 Wood will also present Rebuttal Testimony on behalf of Dobson to address certain issues
25 raised by Mr. Robinson and Mr. Brown.

1 e. Can you briefly summarize your Rebuttal Testimony?

2 (1) Yes. My testimony shows that under applicable federal and state authority, Dobson has
3 met all required standards to be designated as a competitive ETC. My testimony also
4 demonstrates that Mr. Brown's and Mr. Robinson's comments concerning Dobson's
5 satisfaction of certain of the basic ETC designation criteria (in particular, E911, Lifeline,
6 and Dobson's ability to serve certain service areas) are factually and legally incorrect.
7 Finally, my testimony demonstrates that the Commission's designation of Dobson as a
8 competitive ETC is in the public interest and refutes certain arguments which Mr. Brown
9 and Mr. Robinson offer concerning the public interest.

10 **Section 2: The FCC's March 17, 2005 Federal ETC Order is not applicable in this cause**

11 a. Mr. Robinson and Mr. Brown argue that the Commission should apply in this proceeding
12 the ETC designation requirements set forth in the Report and Order issued by the Federal
13 Communications Commission ("FCC") on March 17, 2005 (Brown Response, p. 13;
14 Robinson Response, pp. 38-41). Is that FCC order applicable here?

15 (1) No. As I previously addressed at pages 24-25 of my Direct Testimony, the March 17,
16 2005 Report and Order ("*Federal ETC Order*") is not applicable to this proceeding. Mr.
17 Wood's Rebuttal Testimony further explains why the *Federal ETC Order* is not
18 applicable. I defer to Mr. Wood's testimony on this issue, but wish to emphasize two
19 points.

1 First, the Commission has already issued comprehensive rules governing ETC
2 designations – the Subchapter 23 Rules – so there is no compelling reason to take
3 provisions from the *Federal ETC Order* and apply them in this case. Second, Mr.
4 Brown's observation that the FCC rules issued in the *Federal ETC Order* were published
5 in the Federal Register on May 25, 2005 (Brown Response, p. 11) does not mean that it
6 should be applied in this proceeding. The *Federal ETC Order's* effective date post-dates
7 Dobson's Application in this Cause by several months, and it is likely to be challenged on
8 appeal or reconsideration by the FCC.

9 **Section 3: Dobson satisfies the CRITERIA FOR DESIGNATION as a competitive ETC**

10 a. In your Direct Testimony, you describe the basic requirements for designation as an ETC.
11 (Coates Direct, pp. 10-22). Does Dobson satisfy these requirements?

12 (1) Yes. Dobson is (1) a common carrier, (2) it offers the required supported services
13 identified in 47 C.F.R. § 54.101(a)(1)-(9) throughout its requested designated service
14 areas, and (3) it will appropriately advertise the availability of and charges for the
15 supported services using media of general distribution.

16 b. Do Mr. Robinson or Mr. Brown contend Dobson is not a Common Carrier?

17 (1) No. Dobson's satisfaction of this requirement is undisputed.

18 c. Do Mr. Robinson or Mr. Brown contend Dobson will not provide the required supported
19 services identified in 47 C.F.R. § 54.101(A)?

20 (1) With few exceptions, Dobson's satisfaction of this requirement is undisputed. Mr.
21 Robinson does attempt to dispute Dobson's provision of access to emergency services as
22 required by 47 C.F.R. § 54.101(a)(5), and similarly attempts to dispute Dobson's
23 provision of local usage, which is required by 47 C.F.R. § 54.101(a)(2). Mr. Brown also
24 questions Dobson's provision of local usage, but does not otherwise challenge Dobson's
25 provision of the supported services. Because Dobson's provision of the nine supported
26 services - other than access to emergency services and local usage, which I will address
27 further - is not disputed, the Commission should find that Dobson satisfies the
28 requirement to provide these supported services.

1 d. Do Mr. Robinson or Mr. Brown contend Dobson will not, or cannot, offer the Supported
2 Services throughout its requested service areas?

3 (1) Yes. Mr. Robinson and Mr. Brown each make certain unconvincing arguments which I
4 will address later in my testimony.

5 e. Do Mr. Robinson or Mr. Brown contend Dobson will not advertise the availability of and
6 charges for the supported services using media of general distribution?

7 (1) No. Mr. Robinson raises some illusory concerns regarding Dobson's advertising of
8 Lifeline service, but that is a different issue than the general obligation of a designated
9 ETC to advertise using media of general distribution. Because neither Mr. Brown nor
10 Mr. Robinson suggest that Dobson will fail to advertise as required by Section
11 214(e)(1)(B), the Commission should find that the Company has met this requirement.

12 A. Access to Emergency Services

13 a. What is the basis for Mr. Robinson's challenge regarding Dobson's provision of access to
14 emergency services?

15 (1) Mr. Robinson makes several incorrect arguments, including (1) the emergency services
16 standard an ETC must meet is somehow different than the standard required of other
17 wireless carriers; (2) Dobson's means of providing Enhanced 911 ("E911") service are
18 deficient; (3) Dobson's provision of E911 in Grady County, Oklahoma is somehow
19 inadequate; and (4) the Commission should consider Dobson's provision of E911 in a
20 proceeding before the Public Utility Commission of Texas ("Texas PUC"). Each of Mr.
21 Robinson's arguments must be rejected, because they are all predicated on a
22 misunderstanding of the law regarding access to emergency services and of the facts
23 surrounding Dobson's provision of such access.

24 b. What are ETCs required to do to satisfy the obligation to provide access to emergency
25 services?

1 (1) The requirement is set forth completely in FCC Rule 54.101(a)(5), which defines "access
2 to emergency services" as including "access to services, such as 911 and enhanced 911,
3 provided by local governments or other public safety organizations" and states "access to
4 emergency services" includes "access to 911 and enhanced 911 services to the extent the
5 local government in an eligible carrier's service area has implemented 911 or enhanced
6 911 systems" (emphasis added). In other words, the obligation of an ETC to provide
7 access to emergency services such as E911 does not arise until the local government is
8 ready to provide the enhanced emergency services.

9 c. Does the FCC require wireless carriers, regardless of whether or not they are ETCs, to
10 provide access to emergency services?

11 (1) Yes. FCC Rule 20.18 sets forth detailed requirements applicable to all CMRS providers
12 for deployment of Phase I and Phase II E911 within certain time frames. In 2002, an
13 FCC Order extended certain time frames within the Rule 20.18 requirements for seven
14 months for a class of carriers that included Dobson, but the practical impact of that
15 extension is now moot because the seven months has passed. *In the Matter of Revision of*
16 *the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling*
17 *Systems Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, CC Docket
18 No. 94-102, *Order to Stay*, FCC 02-210 (rel. July 26, 2002) ("*E911 Order*").

19 Rule 20.18(d) requires a CMRS carrier using a network-based E911 solution to
20 provide Phase II E911 to 50% of the population of the area for which the PSAP provides
21 E911 or to 50% coverage of the area for which the PSAP provides E911 within six
22 months of a bona fide request for Phase II deployment. *E911 Order*, ¶ 26.

23 d. Mr. Robinson contends that an ETC's requirement to provide E911 pursuant to Rule
24 54.101(A)(5) is "stricter" than the requirements applicable to wireless carriers under Rule
25 20.18 (Robinson Response, p. 17). Is this correct?

26 (1) No. Tellingly, Mr. Robinson provides no citation for his claim. In fact, it is contrary to
27 specific determinations of the FCC. When it first defined the supported services, the

1 FCC specifically recognized that implementation of wireless E911 for ETCs would track
2 the FCC's E911 Orders (*i.e.*, the Orders creating and implementing FCC Rule 20.18):
3 "We recognize that wireless carriers are currently on a timetable, established in the
4 *Wireless E911 Decision*, for implementing both aspects of access to E911." *In the Matter*
5 *of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and*
6 *Order*, FCC 97-157, ¶ 73 (rel. May 8, 1997) ("*Universal Service Order*"). In addition, in
7 the *Virginia Cellular* proceeding, the FCC specifically acknowledged that compliance
8 with federal (and state) E911 mandates (*i.e.*, FCC Rule 20.18) is sufficient to meet the
9 requirement of providing access to emergency services under Rule 54.101(a)(5). *In the*
10 *Matter of Virginia Cellular, LLC Petition for Designation as an Eligible*
11 *Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45,
12 *Memorandum Opinion and Order*, FCC 03-338, ¶ 19 (rel. Jan. 22, 2004) ("*Virginia*
13 *Cellular*"). Mr. Robinson acknowledges that he is not an attorney (Robinson Response,
14 p. 28), and there is no reason to give credence to his unsupported claims regarding the
15 application of FCC Rule 54.101(a)(5).

16 e. How do the provisions of OAC 165:55-23-11(A)(1) regarding emergency services relate
17 to the federal rules?

18 (1) OAC 165:55-23-11 is one of the Commission's Subchapter 23 Rules (OAC 165:55-23-1,
19 *et seq.*) governing the obligations of wireless carriers designated as ETCs in Oklahoma.
20 OAC 165:55-23-11(a)(1)(D) requires that a wireless ETC in Oklahoma make "access to
21 emergency services" available and OAC 165:55-23-11(a)(1)(E) requires that such a
22 carrier make E911 or similar emergency telephone number services available where the
23 "local government agency serving the end-user has in place a Public Safety Answering
24 Point." Each of these services must be provided to "each end-user subscribing to its

1 Supported Services within its ETC designated service area," pursuant to OAC 165:55-23-
2 11(1). Thus, the Subchapter 23 Rules require that upon designation, the wireless ETC
3 need only provide E911 in its designated service areas within those counties where there
4 has been a compliant PSAP request – a more limited obligation than that set forth under
5 the FCC's rules.

6 f. Mr. Robinson contends Dobson does not satisfy applicable FCC E911 rules because it
7 allegedly failed to choose either a handset-based or network-based solution for Phase II
8 E911 implementation (Robinson Response, p. 19). Is this correct?

9 (1) No. Mr. Robinson's claim further belies his misunderstanding of wireless E911
10 requirements and his lack of familiarity with wireless networks. For his argument, Mr.
11 Robinson relies upon Dobson's discovery response to RTC Interrogatory 1.18. In this
12 request, the RTCs asked Dobson to "identify the method by which [the Company] intends
13 to deploy Phase II E911 services in Oklahoma (*i.e.*, handset or network triangulation)."
14 This vaguely worded question appears to inquire about "handset triangulation" (a non-
15 existent technology, as far as I know) and "network triangulation." The question does not
16 ask whether Dobson had chosen a handset-based or network-based solution for providing
17 E911 as required by FCC Rule 20.18.

1 Dobson responded¹ to this somewhat incomprehensible question by stating:

2 "Dobson's intended method of deploying Phase II E911 capabilities in
3 Grady County [the only location for which the Company has received a
4 request for Phase II E911 deployment] is not handset-based, nor does it
5 rely on network triangulation. Instead, Dobson intends to use a software-
6 based system from a vendor named Polaris Wireless. This solution will
7 use Dobson's RF signature in each market to determine the wireless
8 caller's location."

9 This answer is detailed and correct. This answer does not state, as Mr. Robinson
10 suggests, that Dobson has chosen neither a handset-based nor a network-based solution
11 for providing E911. Rather, the Polaris system referred to in Dobson's response is a
12 network-based solution, although it does not utilize network triangulation. In fact, in
13 response to another of the RTCs' discovery requests, RTC Document Request 1.8,
14 Dobson directed the RTCs to its quarterly E911 reports filed in FCC Docket No. 94-102.
15 These reports clearly state that Dobson provides a network-based solution for providing
16 E911, in full compliance with FCC rules. Mr. Robinson apparently ignored these reports
17 in formulating his comments regarding Dobson's provision of access to emergency
18 services.

19 g. Mr. Robinson implies that Dobson's provision of Phase II E911 in Grady County is not
20 timely (Robinson Response, pp. 20-21). Is this correct?

21 (1) No. In response to the RTCs' Interrogatory 1.19, Dobson clearly set forth the status of
22 Dobson's provision of Phase II E911 in Grady County. Dobson received a request from
23 the Grady County PSAP for Phase II E911 service on March 10, 2005. The Phase II
24 E911 service is scheduled to be operational on or before September 6, 2005. By
25 providing Phase II E911 in Grady County within six months of March 10, 2005, Dobson
26 is in full compliance with FCC Rule 20.18. There has been no change to this plan, and
27 Dobson remains on track to provide Phase II E911 in Grady County in a timely manner.

¹ Dobson has reserved all objections made to the RTCs' discovery requests; discussion of Dobson's responses to the RTCs' discovery requests in this testimony does not operate to waive Dobson's objections.

1 Mr. Robinson's implication that Dobson's timely provision of Phase II E911 in
2 Grady County should preclude it from receiving ETC designation in its requested service
3 areas in Grady County is predicated on his patently false argument that an ETC's E911
4 obligations under Rule 54.101(a)(5) are "stricter" than the E911 obligations set forth in
5 FCC Rule 20.18. Accordingly, this implication should be rejected.

6 h. Mr. Robinson states that he has "concerns" about Dobson's ability to deploy Phase II
7 E911 in Oklahoma due to an unrelated case before the Texas PUC (Robinson Response,
8 p. 21). Are his concerns well-founded?

9 (1) Absolutely not. First, Mr. Robinson neglects to disclose that in the Texas proceeding, the
10 Texas PUC emphatically rejected his argument that an ETC's E911 obligations under
11 FCC Rule 54.101(a)(5) are somehow "stricter" than the E911 obligations set forth in FCC
12 Rule 20.18. Second, Mr. Robinson neglects to mention that Dobson was granted ETC
13 designation in that case and that the Texas PUC repeatedly rejected arguments presented
14 by Mr. Robinson and others concerning Dobson's provision of Phase II E911. Third, he
15 misrepresents the status of Dobson's provision of Phase II E911 in Austin County, Texas.
16 Dobson fully deployed Phase II E911 through its TDMA technology in Austin County on
17 November 30, 2004. Dobson is currently deploying Phase II E911 through its GSM
18 technology in Austin County subject to ongoing discussion² between Dobson and the
19 Austin County PSAP regarding the specific areas in which high quality location
20 information is desired. Dobson has been fully responsive to the PSAP's request and has
21 ordered additional equipment to meet the request. Delivery and installation is expected
22 later this summer. In sum, Mr. Robinson's concerns about Dobson's provision of E911
23 from the Texas PUC case should be dismissed as irrelevant and misplaced.

² See FCC Rule 20.18(j)(5), which provides that "nothing in [Rule 20.18] shall prevent PSAPs and [wireless] carriers from establishing, by mutual consent, deadlines different from those imposed [in Rule 20.18]."

1 i. Mr. Robinson states that he has "concerns" about Dobson's level of cooperation with the
2 Grady County PSAP in deploying Phase II E911 (Robinson Response, p. 23). Are his
3 concerns legitimate?

4 (1) No. Mr. Robinson alleges that Dobson "failed to produce any further correspondence
5 from it to the Grady County PSAP after March 23, 2005." This is absolutely incorrect.
6 On May 18, 2005 (more than two weeks before Mr. Robinson's testimony was filed),
7 Dobson served its First Supplemental Responses to the RTCs' discovery requests upon
8 the RTCs' counsel. Included in these Responses was a letter dated May 17, 2005 from
9 Dobson to the Grady County PSAP confirming Dobson's receipt of its request and asking
10 the Grady County PSAP to provide certain additional information necessary to process
11 the request. Mr. Robinson's concern should be disregarded, as it appears to be based on
12 nothing more than his failure to become fully informed of the facts.

13 j. How do you respond to Mr. Robinson's suggestion that the Commission enact "strict
14 reporting requirements" concerning Dobson's provision of access to emergency services
15 as a condition of its ETC designation (Robinson Response, pp. 24-25)?

16 (1) Mr. Robinson's suggestion must be rejected. First, part of his suggestion is based on his
17 misapprehension that the E911 requirements are stricter for an ETC than for any other
18 wireless carrier. Second, he ignores the fact that the FCC already closely monitors
19 Dobson's compliance with E911 requirements – Dobson must file quarterly detailed
20 reports listing each location where it has received a request for E911 and the status of its
21 E911 deployment in that location. *E911 Order*, ¶ 28. There is no need for the
22 Commission to duplicate this E911 monitoring. Third, imposition of these requirements
23 on Dobson would be inconsistent with Oklahoma law – the Subchapter 23 Rules do not
24 provide for any such requirements, and the Commission has never imposed them on
25 previously designated ETCs, including Dobson and other wireless carriers. Finally, Mr.
26 Robinson's suggestion that the Commission "suspend" Dobson's ETC designation for

wire centers "awaiting 911 service deployment" makes little sense in that the Commission has already certified Dobson's use of federal universal service support to the Universal Service Administrative Company ("USAC") and the FCC for 2005.

B. Local Usage

a. Both Mr. Robinson and Mr. Brown argue that Dobson has failed to show that it offers local usage "comparable" to the ILECs in the Designated Areas (Robinson Response, pp. 39-40; Brown Response, p. 35). Is this an applicable ETC requirement?

(1) No. FCC Rule 54.101(a)(2) requires only that an ETC applicant offer some amount of local usage. As I described in my Direct Testimony (p. 13), local usage is included in all of Dobson's service offerings within the Designated Areas. Dobson offers a wide variety of service offerings that include varying amounts of local usage, calling scopes, and other features at varying prices. This allows consumers to choose the amount of local usage that best fits their needs. If consumers didn't think these service offerings were reasonable, they wouldn't purchase them.

b. Are there Oklahoma-specific requirements regarding local usage?

(1) Yes. OAC 165:55-23-11(a)(1)(K) requires that a wireless ETC in Oklahoma offer unlimited local usage, but only for Lifeline subscribers. Dobson's Lifeline plan includes unlimited local calling, as set forth in Dobson's Informational Tariff on file with the Commission. Also, this Commission previously addressed the issue of local usage, concluding that an ETC should provide a "reasonable amount of local usage minutes," but declining to require unlimited local usage or to set any minimum local usage amount. *Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996*, Cause No. PUD 200300239, *Final Order Adopting the Report of the Administrative Law Judge*, Order No. 495564, p. 2 (Sept. 28, 2004) ("*Oklahoma I Final Order*").

1 In fact, the Commission recently considered requiring wireless ETCs to provide
2 500 minutes of local usage as part of all service offerings for which universal service
3 support was available. *See In the Matter of a Rulemaking of the Oklahoma Corporation*
4 *Commission Amending OAC 165:55, Telecommunications Service Rules*, Cause No. RM
5 200400014, *Proposed Rules*, October 20, 2004 (proposed amendment to OAC 165:55-
6 23-11(a)(1)(A)). However, after the January 12, 2005 hearing in that rulemaking Cause,
7 the 500 minutes limitation was deleted and section OAC 165:55-23-11(a)(1)(K) was
8 added to require unlimited local calling for Lifeline subscribers only.

9 c. Why then do Mr. Brown and Mr. Robinson address this issue?

10 (1) In the *Federal ETC Order*, the FCC adopted a requirement that an ETC applicant in a
11 proceeding before the FCC pursuant to Section 214(e)(6) must demonstrate that it
12 provides a local usage plan comparable to the one offered by the incumbent LEC. Mr.
13 Brown and Mr. Robinson are asserting that this new federal ETC requirement be imposed
14 here. However, as I previously discussed, the *Federal ETC Order* is not applicable in
15 this Cause.

1 Even if comparability of service offerings were relevant here, Mr. Brown's
2 suggestion that the Commission limit Dobson's ETC designation to only those service
3 offerings that include unlimited local calling (Brown Response, p. 35) is especially
4 misguided. First, the Commission is only authorized under 47 U.S.C. § 214(e) to
5 designate telecommunications carriers, not individual service offerings. Second, his
6 argument completely ignores the FCC's own description of how to assess the
7 comparability of a competitive ETC's service offering in comparison to the incumbent's.
8 For example, at paragraph 33 of the *Federal ETC Order*, the FCC recognizes that the
9 unlimited local usage offered by an incumbent may be offset, for purposes of the
10 comparability analysis, by the fact that a competitive carrier may provide a larger local
11 calling area (as Dobson does), or may bundle local with long distance (as Dobson does).
12 Third, the Commission has repeatedly addressed the issue of local usage, and there is no
13 logical reason why the *Federal ETC Order* should cause the Commission to do so once
14 again. Dobson's provision of local usage is fully consistent with applicable requirements
15 and, therefore, the Commission should disregard Mr. Brown's and Mr. Robinson's
16 arguments concerning this issue.

17 Most of all, the decision by a rural resident of Oklahoma as to how much local
18 usage he or she desires should be made by the consumer. Local usage is only one part of
19 a consumer's decision. If a rural resident chooses wireless service because he or she
20 makes a large number of long distance calls (both intrastate and interstate), a wireless
21 offering with an amount of minutes that fits the user's needs may be more cost-effective
22 for the consumer than an unlimited usage plan that offers a much more restrictive toll-
23 free calling area. The imposition of an unlimited usage requirement also precludes the
24 consumer from making a choice that a limited amount of mobility minutes may fit his or
25 her personal needs more appropriately than unlimited usage from a fixed location. Rural
26 Oklahomans deserve to be able to make the same choices that urban Oklahomans can
27 make.

28 **C. Dobson Will Offer the Supported Services Throughout the Designated**
29 **Areas**

- 30 a. Have Dobson's requested service areas changed since the filing of your Direct
31 Testimony?
- 32 (1) Yes. Dobson entered into a Joint Stipulation (the "Stipulation") with Chouteau
33 Telephone Company ("Chouteau"), Totah Communications, Inc. ("Totah"), and Pine
34 Telephone Company, Inc. ("Pine") in which Dobson agreed to make some minor
35 modifications to its requested service areas. A copy of the Stipulation has been filed with
36 the Commission in this Cause. Pursuant to the Stipulation, Dobson is withdrawing its
37 request for designation in the Chouteau study area and in the Ochelata, Oglesby, and

1 Wann wire centers in the Totah study area. Dobson continues to seek redefinition of the
2 service area requirement to allow it to serve the remaining wire center (Lenapah) in the
3 Totah study area. Pursuant to the Stipulation, Chouteau, Totah, and Pine have agreed that
4 the service area requirement for the Totah study area should be redefined to the wire
5 center level and that Dobson should be designated as an ETC in the Lenapah wire center.

6 In addition, for reasons explained below, Dobson is withdrawing its request for
7 designation in the Longtown and Quinton wire centers within the Cross Telephone Co.
8 ("Cross") study area.

9 For the convenience of the ALJ and the Commission, an amended version of
10 **Exhibit TC-1**, setting forth the areas in which Dobson seeks designation as an ETC in
11 this proceeding, is attached as **Exhibit TC-4**. The wire centers and study areas set forth
12 on **Exhibit TC-4** are referred to as the "Designated Areas."

13 b. Is one of the basic ETC designation requirements that the ETC be willing and able to
14 offer the supported services throughout its requested service areas?

15 (1) Yes. Section 214(e)(1) requires that an ETC applicant demonstrate its commitment and
16 ability to offer the supported services throughout the service areas for which designation
17 is sought. OAC 165:55-23-13(a) contains a similar requirement.

18 c. Is Dobson capable of doing so?

19 (1) Yes. **Exhibit TC-2** to my Direct Testimony demonstrates that Dobson is able to satisfy
20 all reasonable requests for service from customers within all of the wire centers and study
21 areas where Dobson is seeking designation.

22 d. In your Direct Testimony, you addressed the FCC's *South Dakota Preemption Order*, in
23 which the FCC held that a competitive ETC is not required to provide ubiquitous
24 coverage throughout its requested service area prior to ETC designation (Coates Direct,
25 pp. 19-20). Do Mr. Brown or Mr. Robinson dispute that ubiquitous service is not
26 required?

27 (1) No.

28 e. Has Dobson committed to providing service to consumers within the Designated Areas
29 consistent with federal and state law?

(1) Absolutely. As described in detail in my Direct Testimony (pp. 20-22), Dobson has committed to respond to all reasonable requests for service consistent with the requirements set forth in the *South Dakota Preemption Order* and OAC 165:55-23-13(a), and using the process set forth in OAC 165:55-23-13(b).

f. Does Dobson have an incentive to provide service to consumers upon reasonable request and pursuant to the service extension process described in your Direct Testimony (pp. 20-21)?

(1) Yes. Dobson is in the business of providing service to consumers, not making it difficult for them to receive service. Dobson has an obvious business incentive to enhance service where it currently provides coverage, and to expand service to areas currently outside its coverage, because doing so will allow it to increase its subscriber base. The ability of Dobson to expand its services is directly related to its ability to design service plans that consumers find attractive to their personal life style and coverage that they desire.

g. Mr. Robinson claims that certain wire centers in which Dobson seeks designation as an ETC are only partially within Dobson's licensed service area (Robinson Response, p. 29). Can you explain this?

(1) Yes. ILECs are certificated by the Commission to serve a given exchange, the boundaries of which are defined by maps the LECs file with the Commission. Dobson uses a software package known as MapInfo® to plot the location of wire centers – the geographic area that corresponds to customers actually served by an end office switch within an exchange. Some minor differences may appear between ILEC exchange maps and the MapInfo® wire center maps, depending on variances in data.

The allegation made by Mr. Robinson arises out of this type of difference with regard to three wire centers: Longtown and Quinton (in the Cross study area) and Hinton (in the Hinton Telephone Company study area). I have studied the ILEC maps of the Longtown, Quinton, and Hinton exchanges; they do present a visual difference with regard to Dobson's maps of the Longtown, Quinton, and Hinton wire centers.

h. What has Dobson decided to do with regard to the Longtown and Quinton wire centers?

1 (1) On the ILEC maps, the exchange boundaries of Longtown and Quinton extend into
2 Haskell County, outside the area where Dobson can provide coverage. Accordingly,
3 Dobson has determined to withdraw the Longtown and Quinton wire centers from the
4 areas where it is seeking designation as an ETC. The removal of these wire centers from
5 the Designated Areas is reflected on **Exhibit TC-4**. Dobson continues to seek
6 designation in the remaining Cross wire centers, which remain listed on **Exhibit TC-4**,
7 and continues to seek redefinition of the service area requirement as to Cross. An
8 amended population density analysis reflecting the removal of Longtown and Quinton is
9 attached as **Exhibit TC-5**.

10 i. What has Dobson decided to do with regard to Hinton?

11 (1) The ILEC map of the Hinton exchange appears to show that the Hinton exchange extends
12 slightly into Canadian County and Blaine County. Even though Dobson's FCC-licensed
13 service area does not include Canadian County or Blaine County, Dobson does provide
14 signal coverage in the areas of Canadian County and Blaine County to which the Hinton
15 exchange appears to extend (a map showing Dobson's coverage in the Hinton area is
16 attached as **Exhibit TC-6**).

1 It is routine for wireless carriers' signal coverage to extend slightly outside of their
2 licensed areas for the simple reason that there is no way to precisely stop radio signals at
3 the border. Wireless carriers in neighboring service areas consult with each other to
4 ensure that this does not result in interference. Neighboring wireless carriers also often
5 enter into a Service Area Boundary Extension Agreement which allows each carrier to
6 provide coverage that extends slightly within the other's footprint in this manner. Dobson
7 has entered into such agreements with certain wireless carriers that provide wireless
8 service in Blaine and Canadian counties.

9 Because Dobson provides signal coverage in the areas of Canadian County and
10 Blaine County to which the Hinton exchange appears to extend, Dobson can meet the
11 ETC obligations in the Hinton area and continues to seek ETC designation there.
12 Designation of Dobson in the Hinton area does not require partial wire center designation
13 (as Mr. Robinson suggests) and the Commission should disregard Mr. Robinson's
14 suggestion that it reject Dobson's ETC designation for the Hinton wire center.

15 j. Does Mr. Brown also challenge Dobson's commitment and ability to provide the
16 supported services throughout the Designated Areas?

17 (1) Yes – at pages 24-33 of his testimony, Mr. Brown contends that Dobson's signal
18 coverage in Oklahoma, and specifically in the OCSI and Wyandotte wire centers, is
19 inadequate. However, he erroneously presents this issue in the context of the public
20 interest analysis required by Section 214(e)(2) for designation in an area served by a rural
21 telephone company, rather than appropriately addressing this issue in the context of the
22 Section 214(e)(1) requirement to provide service throughout the requested Designated
23 Areas.

24 k. **Mr. Brown's Exhibits GHB-1 through GHB-3 purport to show "Dobson PCS**
25 **License Area" in northeast Oklahoma. Are these Exhibits accurate?**

26 (1) Not at all. The "Dobson PCS License Area" shown on Mr. Brown's Exhibits outlines the
27 boundaries of BTAs 31, 448 and 311. I clearly stated in my Direct Testimony (p. 4) that
28 American Cellular Corporation ("ACC") is licensed to provide service for an area that

1 includes Adair, Cherokee, Craig, Delaware, Nowata, Ottawa³ and Washington counties
2 (this service area is referred to as Northeast Oklahoma, or "NEOK"). This licensed
3 service area corresponds to Oklahoma RSA 4. Neither Dobson Cellular Systems, Inc.
4 ("DCS") nor ACC is licensed to serve in all of BTAs 31, 448 or 311, although there is
5 some overlap between these BTAs and Dobson's licensed service areas.

6 **l. So is Mr. Brown correct in concluding Dobson is not licensed to serve the**
7 **Wyandotte service area in Ottawa County (Brown Response, pp. 30-31)?**

8 (1) No. Mr. Brown apparently failed to consider ACC's licensed service areas in NEOK and,
9 therefore, omitted Ottawa County in his analysis.

10 **m. Mr. Brown criticizes Dobson's signal propagation analysis as being "rudimentary"**
11 **(Brown Response, p. 29). Is this a fair assessment?**

12 (1) I would say that Mr. Brown's criticism is more appropriately directed at his own maps
13 identified as Exhibits GHB-3 and GHB-4. At page 26 of his Response Testimony, Mr.
14 Brown identifies three factors that he contends are necessary to generate a reliable
15 propagation analysis, including (1) the transmission characteristics of the cellular tower
16 and the end user's handset or receiver, (2) the nature of the radio spectrum used and (3)
17 the topographical contour of the area in question. While Mr. Brown is incorrect in
18 suggesting that the end user's equipment is an appropriate consideration, it is very
19 revealing that Dobson's signal propagation analysis satisfies Mr. Brown's remaining
20 criteria, whereas Exhibits GHB-3 and GHB-4 do not.

21 **n. Can you briefly explain how Dobson's signal propagation analysis (Exhibit TC-2) was**
22 **generated?**

³ Mr. Brown's statement (p. 31) that I stated that Dobson Cellular Systems, Inc. is licensed in Ottawa County is thus flat wrong.

1 (1) Yes. In the operation of Dobson's business, we utilize a sophisticated computerized RF
2 propagation model to analyze signal coverage and facility performance. This software
3 model employs site-specific inputs, high-resolution topographical data (i.e.,
4 environmental features such as hills, bodies of water, dense vegetation, etc.) and allows
5 the Company's technicians to "drive test" the results – that is, to verify the signal
6 coverage by testing it in the field.

7 o. **Are Exhibits GHB-3 and GHB-4 more accurate than Dobson's propagation analysis**
8 **(Exhibit TC-2)?**

9 (1) Absolutely not. Mr. Brown's perfunctory analysis is far more rudimentary and is based
10 on only a partial data set. He admits that instead of relying on the cell site-specific data
11 and information produced by Dobson in discovery, he elected to obtain only limited
12 information relating to tower location, antenna height and effective radiated power
13 ("ERP") from the FCC's public Universal Licensing System ("ULS") database. As a
14 result, Exhibits GHB-3 and GHB-4 are incomplete, at best.

15 p. Why do you say Exhibits GHB-3 and GHB-4 are incomplete?

16 (1) There are a number of reasons. First, the information contained in the FCC's ULS
17 database is only a partial representation of Dobson's actual facilities in Oklahoma.
18 Federal rules require a wireless carrier to submit data to the ULS database only for cell
19 sites that define the exterior boundaries of its Cellular Geographic Service Area
20 ("CGSA").⁴ If a cell site does not impact the exterior boundaries of its CGSA, the carrier
21 does not supply information about that cell site and thus it is not included in the ULS
22 database. This point is made abundantly clear by simply counting the cell sites portrayed
23 on Mr. Brown's Exhibits – he lists only 48 in the entire state of Oklahoma. In contrast,

⁴ See FCC Rule 22.911.

1 Dobson's confidential response to RTC Interrogatory 1.37 specifically identified
2 approximately 160 cell sites that propagate signal to the Designated Areas. Mr. Brown
3 himself admits that he did not include any cell sites located in Adair, Cherokee, Craig,
4 Delaware, Nowata, Ottawa and Washington counties, despite Dobson's identification of
5 these sites in its confidential response to RTC Document Request 1.16.

6 In addition, since the CGSA boundary is determined by AMPS or TDMA
7 technology, the technical information in the FCC's ULS database is limited to that
8 technology as of the date of filing. Mr. Brown's Exhibits thus fail to consider the
9 technical specifications relating to Dobson's recently upgraded GSM network. The
10 purpose of the ULS filings is to demonstrate that Dobson has met its build out
11 requirements under the FCC Rules. ULS filings have no value in determining the
12 quantity or quality of RF signal propagation.

13 q. Mr. Brown complains that Dobson's response to RTC Document Request 1.16 was
14 unresponsive, preventing him from utilizing the cell site data produced by Dobson to
15 complete his review (Brown Response, p. 29). How do you respond to Mr. Brown's
16 complaint?

17 (1) Frankly I find it disingenuous for Mr. Brown (who is OCSI and Wyandotte's hired
18 witness) to complain about Dobson's responses to a discovery request served by the
19 attorney for the RTCs. Unlike OCSI and Wyandotte, the RTCs served timely discovery
20 on Dobson. In response to the RTCs' Document Requests 1.16 and 1.37, Dobson
21 produced voluminous data regarding the location and technical specifications of cell sites
22 serving the Designated Areas as requested. The RTCs clearly considered Dobson's
23 responses to be fully responsive as they made no request for additional information, nor
24 did they file a motion to compel any additional information in response to RTC
25 Document Requests 1.16 or 1.37.

26 r. Setting aside the shortcomings of the data used by Mr. Brown, do you have any
27 observations about the results of Mr. Brown's analysis?

28 (1) Yes. Even Mr. Brown's rudimentary analysis supports Dobson's position that the
29 Company can satisfy all reasonable requests for service throughout its requested ETC

1 service areas. Even though Exhibits GHB-3 and GHB-4 dramatically understate
2 Dobson's current signal coverage in Oklahoma, these maps depict Dobson's robust signal
3 propagation within the OCSI wire centers where the Company has requested designation
4 as a competitive ETC in this proceeding and undisputedly prove that the Company is
5 equipped to satisfy all reasonable requests for service within these requested service
6 areas. Indeed, the map identified as Exhibit GHB-4 depicts nearly ubiquitous signal
7 coverage at Mr. Brown's contrived -75 dBm "urban quality" standard.

8 s. You mentioned Mr. Brown's "urban quality" service standard (Brown Response, p. 30).
9 Are his -75 dBm and -100 dBm signal propagation assumptions appropriate?

10 (1) No. To the contrary, Mr. Brown's assumptions are plainly inappropriate. For example,
11 the coverage shown in gray on his maps was purportedly computed at a threshold level of
12 -100 dBm. Mr. Brown states that he used the -100 dBm because it is listed as the
13 minimum operating signal strength in the Technical Manual for the Telular® wireless
14 local loop unit. (Brown Response, p. 30). Although I'm not sure what manual Mr.
15 Brown is referring to because he apparently didn't consider it important enough to attach
16 the document as an exhibit to his Response Testimony, I don't see what relevance this
17 equipment's technical standards have on this proceeding. In any event, the signal
18 parameter used to define the contours of a wireless carrier's Cellular Geographic Service
19 Area ("CGSA") is -104 dBm, not -100 dBm. This is not the standard used in generating
20 **Exhibit TC-2**, however. Rather, **Exhibit TC-2** was generated using a -95 dBm
21 threshold, which is the industry standard signal parameter for conventional mobile
22 service, and generally provides sufficient signal strength to complete consistent, high-
23 quality voice calls.

1 Mr. Brown's utilization of the -75 dBm "urban quality" standard is even more
2 questionable. As a threshold, the term "urban quality" is a product of Mr. Brown's
3 imagination and has no relevancy in the wireless industry. Indeed, Mr. Brown himself
4 admits that "there is no fixed standard for what constitutes 'urban quality' service."
5 (Brown Response, p. 30). Instead, as I previously noted, virtually all wireless carriers
6 engineer networks for voice services to achieve a -95 dBm signal level. In my
7 experience, signal quality that would approximate the -75 dBm level Mr. Brown
8 champions may be necessary to deploy certain high-speed data services, but these
9 services are not at issue in this proceeding.

10 t. Is geographic coverage really the issue, though?

11 (1) No. Mr. Brown arbitrarily assumes that geographic coverage equates to the ability of
12 Dobson to provide service to requesting customers in the Designated Areas. This
13 assumption is faulty – instead, Dobson has committed to provide and extend service upon
14 reasonable request in the manner set forth in OAC 165:55-23-13. If Mr. Brown's
15 assumption that geographic coverage was equal to the ability of a carrier to provide
16 service, his rural ILEC clients would be at great risk of having their ETC status
17 suspended, because they do not have facilities in place to serve every square inch of their
18 respective study areas. They can only serve in those locations where there is a phone
19 jack – not in fields, in cars, or on the streets of Oklahoma towns, where customers are
20 able to utilize the benefits of Dobson's mobile services.

21 u. Do Mr. Brown and Mr. Robinson suggest that Dobson be required to provide a plan for
22 building out its facilities to extend coverage throughout the Designated Areas?

23 (1) Yes. Both witnesses suggest that such a plan is required, or should be required, as a
24 prerequisite of ETC designation. (Brown Response, pp. 13, 15-16, 33-34; Robinson
25 Response, p. 39) Some of their statements that such a plan should be required are
26 predicated on their suggestion that the Commission apply the *Federal ETC Order* to this
27 Cause. As noted above and explained in detail in Mr. Wood's Rebuttal Testimony, the
28 *Federal ETC Order* is not applicable here. Accordingly, there is no prerequisite that

1 Dobson provide a "build-out" plan as part of the ETC designation proceeding in this
2 Cause.

3 v. Is a build-out plan required by any authority applicable in this Cause?

4 (1) No. The Subchapter 23 Rules do not require a build-out plan. To the best of my
5 knowledge, no previous wireless ETCs in Oklahoma were required to provide such a
6 plan. Mr. Brown suggests that a build-out plan is required under the standards set forth in
7 the *Virginia Cellular* proceeding (Brown Response, pp. 37, 39). Mr. Brown is correct in
8 assuming that *Virginia Cellular* is relevant authority in this Cause, but his suggestion that
9 it requires the submission of a build-out plan, or an "enforceable commitment" to build
10 cell towers, is misplaced.

11 In *Virginia Cellular*, the applicant proposed to be designated as an ETC in a large
12 area where it did not yet provide signal coverage. *Virginia Cellular*, ¶ 16. It identified
13 157,000 people in its requested designated area that were outside its network coverage
14 area. As a result, it voluntarily committed to build 11 cell sites to cover this population.
15 *Id.* The FCC accepted this plan as satisfying the requirement to demonstrate an ability to
16 serve throughout the requested service area. *Id.* In contrast to *Virginia Cellular*, Dobson
17 has developed a mature and robust network in Oklahoma. The record in this proceeding
18 shows that Dobson's coverage already extends substantially throughout the geography of
19 the Designated Areas. There is no need for Dobson to submit a build-out plan to further
20 demonstrate its ability to offer service throughout the Designated Areas.

21 w. Does that mean Dobson will not use federal universal service support received as a result
22 of ETC designation in this proceeding to expand and maintain its network?

23 (1) No. Dobson has committed to use federal universal service support to improve its
24 network in Oklahoma by, for example, adding new cell sites for coverage and capacity,
25 upgrading switches and other network facilities, improving emergency access services,
26 and supplementing facilities used to maintain service in emergency situations. Dobson's
27 commitments in this Cause are consistent with the requirement of 47 U.S.C. § 254(e) that
28 Dobson use federal universal service support only for the provision, maintenance, and
29 upgrading of facilities and services for which the support is intended.

1 **Section 4: Advertising of Lifeline and Link Up**

2 a. Mr. Robinson contends that Dobson is not meeting its obligation to advertise Lifeline and
3 Link Up for the areas in which it has already been designated as an ETC in Oklahoma
4 (pp. 25-27, 46). Is this true?

5 (1) No. Mr. Robinson's allegation is completely false. As an initial matter, Dobson's
6 compliance with its ETC designation in the Oklahoma I proceeding is not at issue in this
7 proceeding and, as I described in my Direct Testimony (pp. 23-24), the Commission has
8 affirmed Dobson's compliance with its ETC requirements in that proceeding. More
9 importantly, Mr. Robinson's allegation shows his misunderstanding of the advertising
10 requirements applicable to Lifeline and Link Up.

11 b. What is the applicable requirement for advertising Lifeline and Link Up?

12 (1) OAC 165:55-23-15(c) requires that "each wireless ETC shall publicize the availability of
13 Lifeline service in a manner reasonably designed to reach those likely to qualify for
14 service." This requirement is identical to FCC Rule 54.405(a), the federal requirement
15 regarding advertising of Lifeline service.

16 c. Has Dobson met the requirement for advertising Lifeline and Link Up?

17 (1) Yes. Dobson has clearly met this requirement in a number of ways, as set forth in its
18 responses to the RTCs' discovery requests Interrogatory 1.31 and Document Request 1.14
19 (attached as **Exhibit TC-7**). Dobson has created a brochure explaining Lifeline service
20 that is available on its website and is disseminated to customers upon request (whether
21 the request is received via phone, mail, or in person at a store). See **Exhibit TC-7**. It
22 Company has placed advertising in newspapers and other media and has placed posters in
23 its retail stores. *Id.* It has initiated the process to post information on USAC's website –
24 something none of the ILECs appear to have done. *Id.* Finally, Dobson has recently

1 begun providing direct notification concerning the availability of Lifeline to its current
2 subscribers.

3 d. How does Dobson's advertising of Lifeline compare to the RTCs' advertising of Lifeline?

4 (1) Dobson's advertising of Lifeline appears to exceed that of the RTCs'. It does not appear
5 that any of the RTCs have a brochure or other consumer information available to
6 consumers considering Lifeline. *See Exhibit TC-8* (Responses of Cherokee Telephone
7 Company, Ozark Telephone Company, and Salina-Spavinaw Telephone Company, Inc.
8 (three of the RTCs) to Dobson's Interrogatories 1.47 and 1.48 – these responses are
9 representative of the RTCs' responses to these discovery requests). Few of the RTCs
10 have websites at which information about their services, including Lifeline, is available.
11 Each of the RTCs has far fewer retail or walk-in locations than Dobson does, and it
12 appears that the RTCs do not advertise Lifeline at any such locations they may operate.
13 *See Exhibit TC-8*. Few of the RTCs have placed advertising in newspapers or other
14 media regarding the availability of Lifeline. *Id.*

15 e. Mr. Robinson suggests that Dobson's advertising of Lifeline service is inconsistent
16 (Robinson Response, p. 26). How do you respond?

17 (1) The supposed inconsistencies Mr. Robinson identifies simply reflect the fact that the
18 details of Dobson's Lifeline service vary from State to State. Dobson's Lifeline brochure
19 (included in *Exhibit TC-7*), which states that "you can save \$8.25 or more on your phone
20 bill," is used in all of the States where Dobson is designated as an ETC. The description
21 is intentional because the Lifeline discount amount varies depending on the SLC charge
22 in each state, the amount of state-provided support, the amount of carrier-provided
23 support, and various other legal requirements.

1 Dobson's Lifeline poster⁵ used in Oklahoma, (also included in **Exhibit TC-7**)
2 which states "you can save up to \$15...for your basic monthly bill" is also accurate, and
3 is specific to Oklahoma (it is consistent with the Lifeline rate structure set forth in
4 Dobson's Informational Tariff, which includes a base rate of \$35, Tier 1 through 3
5 discounts of \$10, and an additional carrier-provided discount of \$5, for a total discount of
6 \$15, resulting in a discounted rate to the consumer of \$20/month). Mr. Robinson's
7 allegation apparently rests on his belief that "\$8.25 or more" is inconsistent with "up to
8 \$15." These statements are, of course, not at all inconsistent.

9 f. Mr. Robinson suggests that Dobson's advertising of Lifeline is deficient because it has
10 not notified its current customers that they may be eligible for Lifeline (Robinson
11 Response, p. 27). Is this correct?

12 (1) No. Mr. Robinson has failed to identify any requirement that any ETC operating in
13 Oklahoma provide direct notification to its customers regarding the availability of
14 Lifeline. In fact, as shown on **Exhibit TC-8**, many of the RTCs provide no such
15 notification. In any event, Dobson began sending out notification of the availability of
16 Lifeline to its current subscribers in Oklahoma in June 2005.

17 g. Why do you think Mr. Robinson states that Dobson currently has only one Lifeline
18 subscriber in the Oklahoma I areas (p. 27)?

19 (1) I can only assume that Mr. Robinson is attempting to impugn Dobson's provision of
20 Lifeline service. However, Mr. Robinson fails to also disclose that many of the RTCs
21 have very few Lifeline subscribers as well. For example, South Central Telephone
22 Association, Inc. ("South Central") has only one Lifeline customer. See **Exhibit TC-9**
23 (South Central's Response to Dobson Interrogatory 1.50).

24 h. Do you have any further observations about Dobson's provision of Lifeline and Link Up?

25 (1) Yes. I want to emphasize that contrary to Mr. Robinson's unfounded accusations that
26 Dobson's provision and advertising of Lifeline in Oklahoma has been inadequate, Dobson
27 has expended significant resources to provide Lifeline in Oklahoma (including hiring

⁵ This document is erroneously identified by Mr. Robinson as another brochure, notwithstanding Dobson's clear description of it as an 11" x 17" poster.

1 staff who are dedicated to responding to inquiries concerning Lifeline), spent large sums
2 on advertising, and developed an entirely new separate service offering.

3 **Section 5: Dobson will comply with the Subchapter 23 rules**

4 a. Will Dobson comply with the Subchapter 23 requirements for the areas in which it is
5 seeking designation as an ETC in this Cause?

6 (1) Yes. As I explained in my Direct Testimony (pp. 22-24), the Subchapter 23 Rules apply
7 to all designated wireless ETCs operating in Oklahoma. Of course, Dobson has
8 previously been designated as an ETC in the Oklahoma I proceeding, and so Dobson will
9 continue to comply with the Subchapter 23 Rules in its Oklahoma I service areas.
10 Dobson has committed to comply with the Subchapter 23 Rules for the areas in which it
11 seeks designation in this Cause as well. (Coates Direct, p. 23).

12 **A. Access to Telecommunications Relay Services**

13 a. Mr. Robinson states that access to Telecommunications Relay Service is a supported (or
14 "core") service, similar to the services listed in FCC Rule 54.101(A)(1) (Robinson
15 Response, p. 12). Is this correct?

16 (1) No. Access to Telecommunications Relay Service is required by OAC 165:55-23-
17 11(a)(1)(G). As I mentioned above, the Subchapter 23 requirements only apply to
18 designated ETCs, whereas the supported services set forth in FCC Rule 54.101(a)(1)-(9)
19 are prerequisites to designation as an ETC. Thus, although access to telecommunications
20 relay service is an important functionality, it is not a supported service or prerequisite to
21 designation as an ETC. If Dobson's application is approved by the Commission, Dobson
22 will comply with this aspect of the Subchapter 23 Rules as well.

1 However, this distinction may be of minimal importance with regard to access to
2 telecommunications relay services in this Cause – as I explained in my Direct Testimony
3 (p. 15), Dobson provides access to telecommunications relay service by dialing "711."
4 Neither Mr. Brown nor Mr. Robinson question Dobson's provision of access to
5 telecommunications relay service, so the Commission should find that Dobson has met
6 and will meet this ETC requirement.

7 **B. Annual Report**

8 a. Mr. Robinson asserts that Dobson has not met its obligation to file an annual report of its
9 operations by May 1, 2005 pursuant to OAC 165:55-23-2(i) (Robinson Response, p. 30).
10 Is this correct?

11 (1) No. On April 28, 2005, Dobson submitted its Annual Report to its Shareholders (referred
12 to as its "10K report"). Dobson's report was received by the Commission on April 29,
13 2005.

14 b. Did the filing of this Annual Report satisfy OAC 165:55-23-3(i)?

15 Yes. To date, the Public Utility Division ("PUD") has not established any specific format
16 for the Annual Report. The PUD has not contacted Dobson to indicate that its filing did
17 not satisfy OAC 165:55-23-3(i). Thus, I believe Dobson has fully complied with this
18 rule.

19 c. Mr. Robinson also states that Oklahoma-specific operations information is required by
20 OAC 165:55-23-3(i) (Robinson Response, p. 30). Is this correct?

21 (1) No. OAC 165:55-23-3(i) was amended in late 2004, and the requirement to include
22 Oklahoma-specific operations information was removed as part of that amendment. *See*
23 **Exhibit TC-10**. This change was made because the Commission became aware, through
24 the rulemaking process, that wireless carriers generally do not maintain state-specific
25 operations information.

26 **C. Carrier of Last Resort ("COLR") Obligations**

27 a. Do the Subchapter 23 Rules require that a wireless ETC in Oklahoma provide a COLR
28 obligation?

29 (1) No. Nowhere in Subchapter 23 is a wireless ETC required to be a COLR.

30 b. Did Dobson accept a COLR obligation as a condition of ETC designation in its
31 Oklahoma I designated areas?

1 (1) Yes.

2 c. Has Dobson rejected the condition that it serve as a COLR in the Oklahoma I designated
3 areas?

4 (1) No. Dobson has not rejected or disavowed its agreement to meet a COLR obligation in
5 the Oklahoma I designated areas. Dobson's statements in this proceeding concerning the
6 imposition of a COLR obligation on a wireless ETC do not mean that Dobson has
7 rejected the Oklahoma I COLR condition. Mr. Robinson states that he is not an attorney
8 (p. 28), but I do not think it takes a law degree to understand that a party may accept a
9 condition in one case yet still argue in a separate proceeding that the condition is not
10 appropriate.

11 d. Should the Commission impose a COLR obligation on Dobson in this Cause?

12 (1) No. In my Direct Testimony (p. 36), I explained why the Commission should not impose
13 COLR obligations on Dobson in this Cause. The Subchapter 23 Rules, particularly OAC
14 165:55-23-13, set forth the mechanisms by which a wireless ETC in Oklahoma is
15 required to respond to a reasonable request for service. This requirement is somewhat
16 similar to, although not identical to, a COLR obligation. This means it would be illogical
17 and unnecessarily duplicative for the Commission to impose a COLR obligation on a
18 wireless ETC.

19 More generally, the purpose of the Subchapter 23 Rules is to ensure predictable
20 and consistent ETC designations and provide certainty in the operations of wireless ETCs
21 in Oklahoma. The *ad hoc* application of a COLR obligation to Dobson or other wireless
22 ETCs in Oklahoma is thus at odds with the purpose of the Subchapter 23 Rules.

23 **Section 6: Designation of Dobson as an ETC in the Designated Areas is in the public interest**

24 **A. Designation in Areas Served by Non-Rural Telephone Companies**

25 a. Has any witness or party challenged the designation of Dobson as an ETC in areas served
26 by a non-rural telephone company in this Cause?

1 (1) No. Mr. Brown's testimony contains a lengthy discussion of the public interest analysis,
2 but his discussion is focused on the designation in areas served by rural telephone
3 companies. Mr. Robinson argues that Dobson cannot provide certain aspects of the
4 supported services in certain wire centers, but none of the wire centers he focuses on are
5 non-rural telephone company wire centers. Nowhere do either Mr. Brown or Mr.
6 Robinson assert that the Commission must make a public interest finding before
7 designating Dobson as an ETC in areas served by non-rural telephone companies.

8 b. How should the Commission proceed with regard to the designation of Dobson as an
9 ETC in areas served by a non-rural telephone company?

10 (1) Because Dobson has fully demonstrated its satisfaction of the basic ETC requirements,
11 the Commission should immediately designate Dobson as an ETC in the Southwestern
12 Bell and Valor wire centers identified on **Exhibit TC-4**.

13 **B. Overview of The Public Interest Analysis**

14 a. Do Mr. Brown and Mr. Robinson agree that Dobson's designation as an ETC in areas
15 served by a rural telephone company will serve the public interest?

16 (1) No. Both witnesses argue on behalf of their respective clients that Dobson's designation
17 as a competitive ETC in their service areas is not in the public interest. I will respond to
18 certain of their arguments concerning aspects of Dobson's service, but will defer to Mr.
19 Wood on the larger policy considerations at issue.

20 b. Mr. Brown implies (Brown response, pp. 12-14) that the Commission should consider
21 decisions made by other state commissions. Do the decisions he cites provide any useful
22 information concerning the public interest analysis in this cause?

23 (1) No. It is impossible to draw a conclusion from a public interest decision made by other
24 State commissions concerning other carriers without considering the factual record and
25 state-specific legal requirements in each of those decisions. In fact, Mr. Brown only
26 identifies a few specific decisions, but he knows full well that dozens of other decisions

1 have resulted in the granting of ETC status to wireless carriers consistent with the public
2 interest.

3 The Commission has designated several wireless carriers as ETCs, has
4 promulgated the Subchapter 23 Rules to provide a clear and consistent means of doing
5 so, and has applied a public interest analysis several times previously. Based on its
6 experience with wireless ETC designation proceedings, and its own precedent, the
7 Commission need not look to other States for guidance.

8 c. Are Mr. Brown's and Mr. Robinson's public interest analyses consistent?

9 (1) No. Mr. Brown argues first that the Commission should apply ETC designation
10 requirements set forth in the *Federal ETC Order* as the public interest analysis (Brown
11 Response, pp. 16, 33-36), then purports to apply the *Virginia Cellular* public interest
12 analysis (Brown Response, pp. 36-40). Mr. Robinson addresses the public interest
13 criteria set forth by the Commission in Dobson's *Oklahoma I Order* (p. 33-37), but also
14 argues that the Commission should apply requirements set forth in the *Federal ETC*
15 *Order* (Robinson Response, pp. 38-41). It seems to me that the two witnesses can't agree
16 upon what the public interest analysis should entail.

17 d. Should the ETC designation requirements set forth in the *Federal ETC Order* become
18 public interest considerations in this proceeding, as Mr. Brown and Mr. Robinson
19 suggest?

20 (1) No. First, the *Federal ETC Order* applies only to ETC application proceedings before
21 the FCC pursuant to 47 U.S.C. § 214(e)(6). Second, Mr. Brown's and Mr. Robinson's
22 suggestion that specific ETC designation requirements set forth in the *Federal ETC*
23 *Order* be applied here in the context of the public interest analysis makes little sense.
24 These requirements are prerequisites to ETC designation (like the requirements to be a
25 common carrier and to provide the nine supported services), not public interest factors.

26 e. What is the public interest analysis that is applicable in this proceeding?

1 (1) The public interest benefits of each ETC designation should be analyzed in a manner that
2 is consistent with the purposes of the Act itself: advancing universal service, ensuring the
3 availability of quality telecommunications services, and promoting the deployment of
4 advanced telecommunications to all regions of the country, including to rural and high-
5 cost areas.

6 In the *Oklahoma I* proceeding, the Commission noted that the public interest
7 standard involves a balancing of the benefits of an additional ETC (including the benefits
8 of increased competitive choice, the unique advantages of the applicant's service
9 offerings, commitments made by the applicant regarding the quality of its services, and
10 the applicant's ability to serve the designated service areas) against any potential harms
11 arising from the designation. *Oklahoma I Final Order*, p. 24. The Commission then
12 identified four public interest factors for consideration: (1) whether the public will
13 receive a benefit from the designation of the competitive ETC; (2) whether the goals of
14 universal service will be advanced by the designation of another carrier as an ETC; (3)
15 whether customers who do not have telephone service from the ILEC will be able to
16 obtain telephone service as a result of the designation of the competitive ETC; and (4)
17 whether the designation of the competitive ETC will result in any adverse effect on the
18 public. *Id.* pp. 25-26.

19 f. How were these factors applied in the *Oklahoma I* proceeding?

20 (1) The Commission ultimately found that designation of Dobson as a competitive ETC in
21 areas served by the rural telephone companies was in the public interest so long as
22 Dobson (1) complied with the parties' Stipulation in that proceeding (the requirements of
23 which are substantially the same as certain Subchapter 23 Rules); (2) furnished the
24 Commission with information about its service offerings (which is now expressly
25 required by the Subchapter 23 Rules); (3) agreed to comply with the Subchapter 23
26 Rules; and (4) accepted Carrier of Last Resort ("COLR") responsibility. *Oklahoma I*
27 *Final Order*, pp. 1-2.

1 Thus, the Commission essentially found in the *Oklahoma I* proceeding that the
2 designation of Dobson as a competitive ETC in areas served by a rural telephone
3 company is in the public interest so long as Dobson commits to comply with the
4 Subchapter 23 Rules.

5 g. Has anything changed since Dobson's ETC designation last fall in the *Oklahoma I*
6 proceeding that would now make it contrary to the public interest to designate Dobson as
7 an ETC in the areas served by rural telephone companies in this proceeding?

8 (1) No. There is no evidence to suggest that the consumers in the rural areas in this Cause
9 would not also receive the benefits that the Commission found would result from
10 Dobson's designation as an ETC in the *Oklahoma I* proceeding. The Commission made
11 minor amendments to the Subchapter 23 Rules in late 2004 and early 2005, but those
12 amendments do not change the public interest analysis here.

13 h. Mr. Robinson suggests that the Commission has broad discretion to impose additional
14 ETC eligibility requirement (Robinson Response, p. 32). Is this correct?

15 (1) No. Mr. Robinson's suggestion completely ignores the existence of the Subchapter 23
16 Rules. The Subchapter 23 Rules set forth the requirements that a wireless ETC in
17 Oklahoma must comply with upon designation. The creation of additional ETC
18 obligations or requirements during a pending ETC designation proceeding conflicts with
19 the purpose of the Subchapter 23 Rules, which is to ensure predictability and consistency
20 in ETC proceedings and operations.

21 **C. Public Interest Benefits of Dobson's ETC Designation**

22 a. Mr. Brown and Mr. Robinson allege that Dobson will receive universal service funding
23 yet will provide little or no benefit to the public (Robinson Response, p. 34, Brown
24 Response, p. 23). Do you agree?

25 (1) Absolutely not. It appears Mr. Brown and Mr. Robinson have intentionally ignored the
26 tangible public interest benefits Dobson will offer Oklahoma consumers in the
27 Designated Areas upon designation as an ETC, including:

- 28
- Increased consumer choice;

- 1 • Competitive incentives to improve service and lower prices for both incumbent and
- 2 competitive carriers;
- 3 • Competitive incentives for the incumbent and competitive carriers to invest in new
- 4 technologies and infrastructure;
- 5 • Larger local calling areas to reduce long distance charges to consumers;
- 6 • Mobility;
- 7 • Mobile 911 and E911 service where the local PSAP has implemented E911;
- 8 • Flexible bundled service offerings;
- 9 • Access to enhanced services and features equivalent to services and rates available in
- 10 urban areas;
- 11 • State-of-the-art network technology and customer equipment;
- 12 • Service to unserved or underserved consumers;
- 13 • Expanding network coverage;
- 14 • Expedited service activation;
- 15 • 24-hour customer service, technical and operational support;
- 16 • Defined commitments to customer service and service quality, including Dobson's
- 17 adoption of the CTIA Consumer Code;
- 18 • Commitment to extend service upon reasonable request;
- 19 • Provision of Lifeline and Link Up services for qualified low-income Oklahomans.

20 b. You've already provided, in your Direct Testimony and elsewhere, detailed information
21 concerning a number of the public interest benefits listed above. Can you address Mr.
22 Robinson's allegations concerning "advanced services" as a public interest benefit
23 (Robinson Response, p. 34)?

24 (1) Mr. Robinson alleges that Dobson is incapable of providing "advanced services" as that
25 term is defined by the FCC (data throughput of 200 kilobits per second both directions).
26 First, the statement made in my Direct Testimony at p. 33 that Dobson provides access to

1 advanced services was intended to mean that Dobson provides access to "enhanced," not
2 "advanced," services.

3 Nevertheless, Mr. Robinson's argument is irrelevant. First, his allegation is based
4 on his "experience with Dobson's services over [its] networks in Texas," not on any facts
5 in the record about Dobson's actual services in Oklahoma. Second, I find his statement
6 about Dobson's response to the RTCs' Interrogatory 1.41 to be disingenuous. Dobson
7 objected to this discovery request for the very reason that it failed to define "advanced
8 service," and then answered with the specific caveat that the Company understood
9 "advanced service" to mean any service not within the nine supported services set forth in
10 47 C.F.R. § 54.101(a).

11 In any event, Dobson provides a number of enhanced services and optional
12 features that consumers find valuable. Dobson's wide variety of innovative services is,
13 therefore, clearly a public interest benefit.

14 c. Mr. Brown emphasizes that a purpose of universal service is to provide consumers in
15 rural areas with services that are reasonably comparable to those provided in urban areas
16 (Brown Response, p. 32). Do you agree?

17 (1) Yes. However, Mr. Brown does not seem to realize that Dobson's mission is to bring the
18 benefits of competitive wireless services to rural areas that are comparable to what is
19 already available in more urban areas. As I described above, Dobson's coverage extends
20 throughout the Designated Areas at a strong signal level. Dobson provides precisely the
21 same service offerings in rural areas as it does in urban areas. Dobson charges the same
22 prices in rural areas as it does in urban areas. Mr. Brown's assumption that Dobson's
23 service in the Designated Areas is not generally "urban-quality" is belied by the evidence.

24 That said, there are areas in the Designated Areas where Dobson's service or
25 coverage could be improved. Dobson's receipt of federal universal service funding will
26 make it possible for Dobson to achieve the universal service goal of bringing improved
27 service to rural areas of Oklahoma.

28 d. Do you agree with Mr. Brown that without a commitment to specific network
29 improvements, Dobson will not provide "urban-quality" service throughout the
30 Designated Areas (Brown Response, p. 32)?

31 (1) No. Dobson is obligated to use all federal universal service support for the provision,
32 maintenance, and upgrading of facilities and services for which the support is intended,

1 pursuant to Section 254(e), and Dobson has committed to do so. If the Commission finds
2 that Dobson is not using federal universal service support for the intended purposes, it
3 can refuse to certify Dobson's use of support to the FCC and USAC. Mr. Wood also
4 addresses an ETC applicant's incentives to invest, the specificity of commitments needed
5 by an ETC applicant, and related issues, and I defer to his testimony on those issues.
6 Nevertheless, I can confirm that Dobson takes its ETC commitments seriously and, as an
7 Oklahoma-based company, wants to bring the benefits of universal service to Oklahoma
8 consumers.

9 e. Mr. Brown asserts that the record is devoid of facts that would allow the Commission to
10 conclude Dobson's network is able to remain functional in emergency situations (Brown
11 Response, p. 34). How do you respond?

12 (1) Mr. Brown is wrong again. Dobson's Application (p. 17) includes a description of
13 Dobson's ability to remain functional in emergency situations, as did my Direct
14 Testimony (p. 32). Dobson further presented detailed information about its ability to
15 remain functional in emergency situations in its responses to RTC Interrogatories 1.22
16 and 1.23, which described the battery and generator backup capabilities at Dobson's cell
17 sites and mobile switching centers (these responses are attached as Confidential **Exhibit**
18 **TC-11**).

19 f. Is Dobson committed to consumer protection and high quality service?

20 (1) Absolutely. Dobson has always been committed to providing outstanding customer
21 service. The wireless industry, unlike the wireline telecommunications industry, is
22 extremely competitive and consumers routinely distinguish competitive providers by
23 their level of customer care. In addition, Dobson has voluntarily adopted the CTIA
24 Consumer Code for wireless carriers. Dobson will comply with the CTIA Consumer

1 Code for the benefit of consumers within the Designated Areas as part of its ETC
2 designation to ensure high customer service and service quality.

3 g. Has the FCC considered an ETC applicant's adoption of the CTIA Consumer Code?

4 (1) Yes. Prior to *Virginia Cellular*, the FCC applauded the wireless industry's voluntary
5 adoption of the CTIA Consumer Code. In *Virginia Cellular*, the FCC determined that,
6 because there are no mandatory service quality standards that apply to wireless carriers, a
7 commitment to meet the CTIA Consumer Code was sufficient to mitigate and address
8 any service quality concerns a commission may have about a wireless carrier consistent
9 with the public interest. *Virginia Cellular*, ¶ 30.

10 h. Is there any evidence that Dobson's customers value the Company's service quality?

11 (1) Yes. The overall usage of Dobson's services by consumers suggests that it is providing a
12 high-quality service. If consumers found that Dobson's service was not of sufficient
13 quality, they would not subscribe to the service, and Dobson would not receive any per-
14 line support for such consumers. On the whole, the relative adoption and usage of
15 wireless services as compared to wireline services also suggests that consumers place a
16 high value on wireless services and a dwindling value on wireline services. The number
17 of wireless subscribers and the number of minutes of use on wireless networks –
18 including Dobson's – is increasing while the number of wireline access lines and the
19 number of minutes of use on wireline networks is decreasing. In my opinion, this is the
20 most powerful indicator of high-quality service.

21 **D. The Goals of Universal Service**

22 a. A second factor in the Commission's public interest analysis is whether the goals of
23 universal service will be served by the designation of a competitive ETC. Will
24 designation of Dobson as a competitive ETC serve the goals of universal service?

1 (1) Yes. The goals of the universal service program are outlined in the preface to the 1996
2 Act: to "promote competition and reduce regulation in order to secure lower prices and
3 higher quality services for American telecommunications consumers and encourage the
4 rapid deployment of new telecommunications technologies." Pub. L. No. 104-104, 100
5 Stat. 56 (1996). The designation of Dobson as a competitive ETC will promote
6 competition and encourage the rapid deployment of Dobson's telecommunications
7 services.

8 b. Mr. Robinson assumes that the sole means of determining whether the goals of universal
9 service are being served by a competitive ETC designation is to identify whether new
10 customers are being connected to the telecommunications network (Robinson Response,
11 p. 36). Is this correct?

12 (1) No. As Mr. Wood's testimony describes in more detail, the goals of universal service are
13 served in a number of ways as a result of a competitive ETC designation.

14 c. Mr. Robinson asserts that designation of Dobson will not result in new consumers being
15 connected to the telecommunications network (Robinson Response, p. 36). How do you
16 respond?

17 (1) First, Mr. Robinson asserts that Dobson should be faulted for not committing to extend
18 service into new areas. He ignores the fact that Dobson already serves substantially
19 throughout the entirety of the Designated Areas. Of course, as I mentioned above,
20 Dobson has committed to use universal service support to further improve its coverage
21 and services within the Designated Areas.

22 Second, Mr. Robinson faults Dobson for not making commitments to reduce the
23 price of its service offerings upon designation. He neglects to mention that there is no
24 requirement to do this, and that doing so is not necessarily related to the goals of
25 universal service.

26 **E. Service to unserved customers**

27 a. The Commission's public interest analysis also asks whether customers who do not have
28 telephone service from the ILEC will be able to obtain telephone service as a result of the

1 designation of the Competitive ETC. Will designation of Dobson as an ETC increase the
2 opportunity for currently unserved customers to receive service?

3 Yes. **Exhibit TC-12** (a map created with publicly available information from the
4 U.S. Census Bureau) shows that there are a significant number of consumers
5 (approximately 1% to 13.7% of the population) without telephone service in the
6 Designated Areas. Some of these consumers may be unable to afford telephone service.
7 For these consumers, designation of Dobson as an ETC will give them another
8 opportunity to do so, because Dobson will be offering Lifeline Service throughout the
9 Designated Areas. Some other consumers may not be satisfied with conventional
10 landline telephone service. For these consumers, Dobson's variety of service offerings
11 provides choices, allowing to receive the telecommunications service they desire. Thus,
12 designation of Dobson as an ETC will assist Dobson in providing telecommunications
13 services to these people. Finally, some of the unserved consumers in the Designated
14 Areas may reside in isolated or rural areas where it is difficult to provide landline phone
15 service. As I've described above, designation of Dobson as an ETC will allow Dobson to
16 improve its coverage within the Designated Areas. As Dobson does so, it will provide
17 these isolated consumers with another opportunity for telephone service.

18 b. Mr. Robinson asserts that no RTC has had an unfulfilled service request in the last two
19 years (Robinson Response, p. 36). How does that relate to this public interest factor?

20 (1) I have no reason to dispute his statement. Dobson itself has not had any unfulfilled
21 requests for service. However, as **Exhibit TC-12** shows, that does not mean that there
22 are not unserved consumers in the Designated Areas. Presumably, these consumers find
23 the RTCs' line extension charges to be too exorbitant, are dissatisfied with the service
24 they receive from the RTCs, or have some other reason for not requesting service from
25 the RTCs. In any event, designation of Dobson as an ETC will certainly increase the
26 likelihood that customers who are currently unserved will be able to receive
27 telecommunications service.

28 **F. There will be no adverse effect on the public from Dobson's ETC**
29 **designation**

30 a. The final public interest factor the Commission considers is whether the designation of a
31 competitive ETC will result in any adverse effect on the public. Will designation of
32 Dobson as a competitive ETC result in any adverse effect on the public?

(1) No. Mr. Robinson and Mr. Brown argue that Dobson's designation will result in a variety of adverse effects, ranging from harm to the long-term sustainability to the universal service fund to increases in prices. Their arguments are fully refuted in Mr. Wood's testimony, but I will address a few specific issues they raise as well.

b. What is Dobson's current projection of the amount of support it will draw from the universal service fund?

(1) Because of the slight changes to the areas in which Dobson is seeking designation that I've described above, Dobson's revised estimate is that it would be eligible to receive approximately \$306,139 per month in federal high-cost universal service support for its subscribers within the Designated Areas. If the high-cost universal service fund is (as estimated by USAC) \$1,018,894,000 for the Third Quarter of 2005, then Dobson would receive approximately 0.09% of the total high-cost support available to all ETCs for that period.

c. Does the amount of universal service support that Dobson will receive upon designation represent an adverse effect to the public?

(1) No. Instead, it represents a critical investment in the Oklahoma telecommunications infrastructure.

d. Mr. Robinson suggests that when the amount of universal service support Dobson will receive upon designation is balanced against the benefits arising from its ETC designation, the results do not make the designation worthwhile (Robinson Response, p. 37). How do you respond?

(1) Mr. Robinson's analysis of this issue is flawed because he has failed to consider nearly all of the benefits that will arise from Dobson's designation as an ETC. The only possible benefits he mentions are Dobson's extension of service, the possibility that Dobson will reduce its rates, and specific investments Dobson could commit to. He neglects to mention that Dobson has committed to a specific multi-step process for extension of

1 service upon reasonable request; he neglects to mention that Dobson has committed to
2 improve its network and facilities; and, most of all, he neglects to mention the many other
3 benefits of ETC designation I previously listed. His incomplete analysis of the "adverse
4 effect" on the public resulting from the designation of Dobson as an ETC should,
5 therefore, be disregarded.

6 e. Is there any evidence that Dobson's prior ETC designation has detrimentally affected the
7 incumbent carriers' ability to provide universal service to their customers?

8 (1) No. To the best of my knowledge, no rural incumbent carrier has gone out of business,
9 filed for bankruptcy, or otherwise suffered any financial harm as a result of Dobson's
10 designation as a competitive ETC in the areas of Oklahoma (and other States) where
11 Dobson has already been designated.

12 f. Is there any evidence that the RTCs, OCSI, or Wyandotte will relinquish their ETC status
13 if Dobson is designated as a competitive ETC in their service areas?

14 (1) No. Since 1999, wireless carriers have been designated as ETCs in dozens of states. I
15 am not aware of a single ILEC that has sought to relinquish its ETC designation and
16 forego the receipt of federal universal support in all that time.

17 g. How does the balancing of benefits and costs in this proceeding compare to the
18 Commission's decision in the Oklahoma I proceeding?

19 (1) The RTCs, OCSI, and Wyandotte have introduced no specific evidence or new theory to
20 suggest that the rural service areas where Dobson is seeking designation in this case are
21 significantly different in any way from those rural service areas where the Company was
22 designated as an ETC in *Oklahoma I*. They have introduced no evidence to suggest that
23 their service areas are so exceptional as to deny the consumers in these areas the benefits
24 of Dobson's designation. The Commission performed a public interest balancing test in

1 the *Oklahoma I* proceeding, and determined that designation of Dobson was in the public
2 interest. It should do the same here, because the situation is the same.

3 **Section 7:Redefinition of the Service Area Requirement**

4 a. Do Mr. brown and Mr. Robinson dispute Dobson's request to redefine the service area
5 requirement in this proceeding?

6 (1) No. Dobson's redefinition request is undisputed. In addition, as I previously noted,
7 Chouteau, Totalh, and Pine have agreed that redefinition is appropriate as to the Totalh
8 study area.

9 b. Has Dobson presented the information necessary to allow the Commission to redefine the
10 service area requirement pursuant to Section 214(E)(5) and FCC Rule 54.207?

11 (1) Yes. I provided a population density analysis with my Direct Testimony that shows that
12 there will be no inadvertent effects of creamskimming (p. 40, Exhibit TC-3). As
13 previously discussed, an amended population density analysis (**Exhibit TC-5**) has been
14 provided for the Cross study area to accommodate the withdrawal of Dobson's request for
15 designation in the Longtown and Quinton areas and to accommodate for the changes to
16 the areas where Dobson is seeking designation that resulted from its Joint Stipulation
17 with Totalh, Chouteau, and Pine. This amended population density analysis confirms that
18 no effects of creamskimming will occur if Dobson is designated within its requested
19 service areas.

20 **Section 8:Certification**

21 a. Was a certification regarding the use of high-cost support included with Dobson's
22 Application for ETC designation in this Cause?

23 (1) Yes. Attached to the Application was a certification stating that all high-cost support
24 received by ACC in 2005 would be used only for the provision, maintenance, and
25 upgrading of facilities and services for which the support is intended, pursuant to Section

1 254(e). This certification is limited to ACC, because the Commission has already
2 certified the use of high-cost support by DCS in 2005 to the FCC and USAC.

3 b. How should this Certification be handled?

4 (1) Dobson respectfully requests that when the Commission issues its Order designating
5 Dobson as an ETC, it should include with the Order its certification to the FCC and
6 USAC regarding ACC's use of support for 2005. Doing so will avoid the unnecessary
7 administrative burden of having to separately seek the certification.

8 **Section 9: Conclusion**

9 a. Can you summarize your testimony?

10 (1) Yes. Dobson has demonstrated that it fully satisfies the requirements to be designated as
11 a competitive ETC as set forth in 47 U.S.C. § 214(e) and the FCC's rules. Dobson has
12 also demonstrated that it is in the public interest to grant the ETC designation in areas
13 served by a rural telephone company. Finally, Dobson has demonstrated that redefinition
14 of the service area requirement for certain wire centers within rural telephone company
15 study areas is necessary and appropriate, and accordingly, it should be granted
16 conditional ETC designation in those wire centers subject to the FCC's concurrence in the
17 redefinition. Therefore, Dobson urges the Commission to approve its Application for
18 ETC designation.

19 b. Does this conclude your rebuttal testimony?

20 (1) Yes.

Exhibit TC-4

Updated List of Areas Where Dobson is Requesting ETC Designation

in this Proceeding (the "Designated Areas")

Non-Rural Telephone Company Wire Centers

Incumbent Telephone Company	Wire Center	Designated CETC
Southwestern Bell – Oklahoma	AFTNOKMA	ACC
	ALLWOKMA	ACC
	BRVLOKED	ACC
	CDWRKSLU	DCS
	CFVLKS10	ACC
	CHTPKSBE	ACC
	CMMROKMA	ACC
	COPNOKMA	ACC
	DEWYOKMA	ACC
	DLWROKMA	ACC
	FRLDOKMA	ACC
	GRVEOKMA	ACC
	MIAMOKMA	ACC
	NOWTOKMA	ACC
	PCHROKMA	ACC
	QUPWOKMA	ACC
	THLQOKCO	ACC
	THLQOKHU	ACC
	THLQOKMA	ACC
	VINTOKMA	ACC

	WSTVOKMA	ACC
Valor Telecommunications of OK, LLC	RAMNOKXA	ACC

Exhibit TC-4 (cont.)

Updated List of Areas Where Dobson is Requesting ETC Designation

in this Proceeding (the "Designated Areas")

Rural Telephone Company Study Areas

Incumbent Telephone Company	Wire Centers Comprising Oklahoma Study Area	Designated CETC
Atlas Telephone Co.	BGCBOKXA	ACC
	BLJKOKXA	ACC
	WLCHOKXA	ACC
CenturyTel of NW Arkansas – Russelville	CLCROKXA	ACC
	MYVLARXA	ACC
CenturyTel of NW Arkansas – Siloam Springs	SMSPARXA	ACC
Craw-Kan Telephone Coop., Inc. – KS	BRTLKSXA	ACC
	EDNAKSXA	ACC
Grand Telephone Co. Inc.	DSNYOKXA	ACC
	JAY OKXA	ACC
Ozark Telephone Company	SWCYMOXA	ACC
Seneca Tel. Co.	SENCMOXA	ACC
	TIFFMOXA	ACC
South Central Tel. Assn. Inc – KS	BURLOKXA	DCS
	BYRNOKXA	DCS
Wyandotte Telephone Company	WYNDOKXB	ACC

EXHIBIT TC-4 (cont.)

Updated List of Areas Where Dobson is Requesting ETC Designation

in this Proceeding (the "Designated Areas")

**Rural Telephone Company Wire Centers in Which Dobson Seeks Designation as a
Competitive ETC Subject to Redefinition of the Service Area Requirement**

Incumbent Telephone Company	Wire Center	Designated CETC
ALLTEL Oklahoma	ASLDOKXA	DCS
	BRFLOKXA	DCS
	BTLROKXA	DCS
	CANTOKXA	DCS
	CORNOKXA	DCS
	DLCYOKXA	DCS
	FOSSOKXA	DCS
	GOTBOKXA	DCS
	GRTYOKXA	DCS
	HMMNOKXA	DCS
	KIOWOKXA	DCS
	MTVWOKXA	DCS
	RSVTOKXA	DCS
	SNYDOKXA	DCS
	SVNNOKXA	DCS
Central Oklahoma Telephone Co.	BOLYOKXA	DCS
	CSTLOKXA	DCS
Cherokee Telephone Co.	APLROKXA	DCS
	ATWDOKXA	DCS
	STRTOKXA	DCS
Cross Telephone Co.	KFTNOKXA	DCS
	PORMOKXA	DCS

Exhibit F

Revised Population Density Analysis

EXHIBIT TC-5**Amended Population Density Analysis**

This table compares the population density per square mile for those areas in which Dobson is seeking designation as a federal eligible telecommunications carrier ("ETC") with those areas in which Dobson is not seeking ETC designation.

Incumbent Telephone Company	Service Area	Total Population	Total Area (per sq. mi.)	Population Density (per sq. mi.)
Alltel Oklahoma	Area Requesting Designation	14,926.00	1,662.59	8.98
	Area Not Requesting Designation	15,934.00	1,784.46	8.93
Central Oklahoma Telephone Co.	Area Requesting Designation	3,608.00	274.71	13.13
	Area Not Requesting Designation	4,980.00	216.12	23.04
Cherokee Telephone Co.	Area Requesting Designation	2,003.00	202.26	9.90
	Area Not Requesting Designation	9,704.00	290.72	33.38
Cross Telephone Co. (<i>minus Longtown and Quinton</i>)	Area Requesting Designation	7,007.00	247.62	28.30
	Area Not Requesting Designation	15,351.00	581.40	26.40
Hinton Telephone Co.	Area Requesting Designation	4,898.00	307.43	15.93
	Area Not Requesting Designation	1,842.00	234.74	7.85
Oklahoma Alltel, Inc.	Area Requesting Designation	14,807.00	388.86	38.08
	Area Not Requesting Designation	26,521.00	660.20	40.17
Oklahoma Communication Systems, Inc.	Area Requesting Designation	4,015.00	185.60	21.63
	Area Not Requesting Designation	40,216.00	654.24	61.47
Panhandle Telephone Cooperative, Inc.	Area Requesting Designation	1,722.00	395.06	4.36
	Area Not Requesting Designation	29,310.00	5,395.12	5.43
Pioneer Tel. Coop., Inc.	Area Requesting Designation	28,202.00	4,926.79	5.72
	Area Not Requesting Designation	78,201.00	5,371.55	14.56

Incumbent Telephone Company	Service Area	Total Population	Total Area (per sq. mi.)	Population Density (per sq. mi.)
Pottawatomie Telephone Co.	Area Requesting Designation	1,768.00	74.75	23.65
	Area Not Requesting Designation	4,469.00	221.42	20.18
Salina-Spavinaw Tel. Co., Inc.	Area Requesting Designation	10,095.00	318.45	31.70
	Area Not Requesting Designation	11,640.00	193.47	60.16
Totah Telephone Co., Inc. (<i>minus Ochelata, Oglesby, and Wann</i>)	Area Requesting Designation	969.00	149.22	6.49
	Area Not Requesting Designation	5594.00	651.41	8.59